Responsible Trucking

New Directions

Final Report of
the Ontario
Public Commercial Vehicles Act
Review Committee

June, 1983

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June 20, 1983

The Honourable James Snow
Minister of Transportation
and Communications
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Dear Mr. Minister:

On behalf of the members of the Committee I have the honour Sir, to present to you this Final Report on our views and advice as to how the Ontario Public Commercial Vehicles Legislation should be reformed.

The concepts for the economic regulation of trucking recorded here represent the product of many months of intensive discussion and debate by the Committee. The result is a recommendation for a substantial shift in emphasis of regulation. All members have contributed insights and ideas from each of their different perspectives. While the result probably is not exactly what any one individual member would have recommended it represents the consensus of views, and a framework for dealing with the challenges of the next few decades.

The people you appointed to this task of developing a framework of principles for regulation have been generous with their time, dedicated, and enthusiastic in discharging your commission, and patient with their Chairman. I believe the Committee has produced for your consideration a comprehensive blueprint for improving the economic regulation of trucking, tuned to the progress of the industry, the economy and the traditions of government in Ontario. As Chairman, I appreciate the challenge and trust you placed in our hands, and I appreciate the response of the Committee members.

I must also gratefully acknowledge the several hundred people who took the time to write or to attend meetings of the Committee, and to several thousands of people beyond that who have contributed to the work of professional and trade associations in pursuing their concerns for the future of trucking services in Ontario. All have enriched the work of the Committee.

Lastly, I want to recognize the invaluable contribution of the Committee's staff in both the content and the production of this report. As Committee Coordinator, Murray Lister has brought the Committee's discussions together into a form and language around which all could agree. This report would not have been possible without his efforts. Blair Gough, the Committee's Secretary, has likewise performed essential service in the management of the Committee's affairs including its communications with all those who have followed our deliberations.

Respectfully submitted,

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Overview and Executive Summary

This is the Final Report of Ontario Public Commercial Vehicles (PCV) Act Review Committee. It contains the advice of the Committee to the Minister of Transportation and Communications respecting the general direction in which the Province should develop new legislation for the economic regulation of the for-hire trucking industry in Ontario.

The Review Committee was appointed to this task by the Minister in June of 1981. The problem which the Committee was asked to address was how to reform the antiquated Public Commercial Vehicles Act. The complex patchwork of regulation contained in the Act has been overtaken by economic and financial realities of modern trucking. This has left the PCV Act full of loopholes and made it virtually unenforceable. For those who have regard for the obligations, privileges and commercial order supposed to be created by the Act, the situation has become unfair, and untenable.

The task of review has been complex. In recent years the motor carrier industry has changed a great deal. It has matured and become a very diverse and technically sophisticated business. Transportation policy is in flux throughout North America, especially as a result of the deregulation activities in the United States. To complicate matters further there is very little statistical and factual data available on the industry, and a surplus of rhetoric and mythology.

The depth of experience of the Committee members with the motor carrier industry has been essential to untangling the issues, gaining insights to the challenges that lie ahead, and in maintaining a practical approach to regulation and reforms. The Committee also consulted with many people and carefully reviewed responses to its Discussion Paper, before coming to a consensus on new directions for regulation.

This report is addressed primarily to the reader already familiar with the history and issues of trucking regulation. It records consensus of the committee from three main perspectives on the future

Section 1—the objectives and principles for regulation

Section 2—the general mechanisms by which to achieve the objectives

Section 3—the implementation and transition issues

Further detail on some of the mechanisms discussed during the review is provided in Section 4. Section 5 provides background on the issues. Section 5 also outlines the terms of reference, describes the review process, and summarizes the responses to the Discussion Paper published by the Committee in November 1982.

Consensus

We have developed a framework for regulation as far as it is possible to go at this point in time. We have identified issues yet to be resolved, and mechanisms for addressing them. Our agreement is based on taking a practical approach to solving problems that exist with the PCV legislation.

The important agreements we have reached relate to the principles and overall framework for regulation.

The issues which remain unresolved among Committee members relate to questions of degree and to the projected impacts and implications of changes. These are practical questions. They cannot be answered satisfactorily in the abstract.

Our report should be regarded as a new point of departure, rather than a conclusion to discussion and development. It is crucial to our recommendation to proceed with reform that there be an ongoing mechanism to capture experience and make it the basis for future consultation and progress. This puts the search for solutions on a practical and technical basis, rather than a political or ideological basis.

Consultation

The continuing evolution of reform should be via a consultative process. We have the experience of this Review as to what can be achieved. People of goodwill concentrating on the future, its opportunities and its threats, are capable of producing ideas which are innovative and well founded on common sense. Shippers and carriers must have a role in reform implementation and monitoring.

Urgency

We believe that getting on with reforms is not only the practical approach, but is a matter of increasing urgency. Speed is of the essence. The preparations and transitions for reforms are substantial and will take two years or more. Delays could drag out the period of uncertainty and instability to an unreasonable length for shippers and carriers hard pressed by recession and unclear, uncertain regulation.

Unified Concepts

Our recommendations go beyond a static framework of objectives and principles. They outline the directions in which to develop mechanisms of regulation and a plan for managing change and the transition period. This approach to reform is designed to achieve ongoing consistency between practical detail and issues of principle.

The objectives must remain a constant reference. We have taken the same approach in the mechanisms, in the implementation and transition plans, and the proposal for future review. All of these concepts are part of a complete constitution for trucking. The whole structure needs each of its checks and balances to remain consistent.

We urge that the recommendations be viewed as a unified package. No one proposal makes the sense on its own that they all do together. While some detailed issues and decisions must be postponed, decisions on the policy outline or framework must not be postponed.

Overall Approach

Productivity and Fairness

The economic environment and the trucking industry are changing. Economic regulation of trucking in Ontario must evolve to keep pace. We believe the current Public Commercial Vehicles Act is too restrictive in limiting the operational flexibility and efficiency needed for the opportunities that lie ahead. We also see the legislation as unfair in the way it allocates entitlements to employ talents and earn rewards. We prefer the democracy of the market. We think regulation should protect fair trade and equitable competition, not individual carriers. We propose new arrangements, built around healthy competition and diversity, responsibility, and a built-in capacity for change. The framework for legislation we propose here is intended to be a framework for productivity and fairness in the trucking industry.

We do not expect trucking services will be so scarce in the 1980's and 1990's that public necessity demands public control. And we believe the industry is mature enough that in most cases public convenience is best defined and pursued by exchange in the marketplace, not in the hearing rooms of the Transport Board. We believe that trucking should be regulated less as a utility and more as a service industry.

Role of Government

Transport is too important to society to be left without some government supervision and control. In this respect, the most important role for government, as we see it, is not to adjudicate public necessity and convenience for each entrant or to create special property rights in each operating authority. It is instead to maintain confidence in effective and equitable competition; to ensure that access to the market by shippers and carriers is not limited by monopoly or predation; and to ensure due care and diligence and socially responsible behaviour in trucking operations.

Entry

To achieve these ends, the major changes we propose are to simplify the licensing structure, removing many types of restrictions, and to simplify the entry test and make it more objective. Our proposals maintain the right to

private trucking, and provide entry to for-hire trucking to those who can pass objective fitness standards. Fitness certification and operating authorities would be non-transferable.

Performance

At the same time, we propose that performance regulation should be increased to control operators who would limit effective competition, or who do not comply with legislated responsibilities of operation.

We propose improvements to information systems to make the Act more enforceable, and we propose a greater role for the Transport Board in enforcement. If the regulatory system is to be respected, it must be made enforceable, and then enforced.

We strongly support the Commercial Vehicle Operator Registration (CVOR) concept as recommended by the Uffen Commission on Truck Safety. The CVOR would require that before a truck goes on the highway, someone must take responsibility for it. This will provide the means to classify carriers more clearly as private, for-hire or illegal. It is the principal mechanism for improving performance regulation and responsible trucking.

Rates

The rate filing process must be reconciled with collective ratemaking practices in the industry. We recommend both these issues be referred to a special committee for resolution within one year.

Outcomes

Changes in the instruments of regulation which we propose will put more responsibility upon participants in the industry for commercial success and for compliance. Government will interfere with operating rights and privileges only in the exception, after a carrier has accumulated a record of non-compliance, or after participants in a market have made a case that fair and equitable competition will be prejudiced. The burden will fall upon government to arrest irresponsible behaviour (non-compliance). The burden will fall to shippers and carriers as a class to defend their rights of access to markets. The burden will be upon the individual carrier to build his competence and build up his goodwill in the market.

The outcome of these changes in the legislative framework should be equal opportunity to compete. They should foster fairness, efficiency and responsible business behaviour in the trucking industry. They should accommodate rational operations, operating flexibility, and stimulate innovation. The changes should make regulation more responsive to the flexibility of the truck mode of transporting goods, and accommodate the innovative approach in the industry. They should encourage compliance and provide for cost effective enforcement.

Transitions

It is our intent that these mechanisms be realistic, equitable and workable. Changes can be managed and implemented so as to minimize disruptions or require no uncommon industry investments of time or money. Changes will be required to the PCV legislation, and to the procedures of the Ontario Highway Transport Board, which will take some time, but should present no uncommon technical difficulties. The difficulties that might be entailed in the development of a Commercial Vehicle Operator Registration (CVOR) system will only become apparent after more planning work is complete. This is one change which will require significant government time and money to implement.

Adjustment

Review and adjustment are also fundamental to the effectiveness of the legislation. "Time to adjust" should be provided for participants, whether responding to new legislation, or to new entrants to a market. Time to adjust should also be planned for the legislation itself and the new procedures. Ongoing refinements and improvements should be made as experience accumulates with the mechanisms, and a comprehensive report on trucking and regulation should be prepared approximately five years after implementation of the proposed system.

Recommendations

The PCV Review Committee recommends that the Ontario Government:

1. Accept the statement of objectives and principles contained in Section 1 of this report as the foundation for future regulation of the trucking industry in Ontario. Specifically this will involve endorsing the state ments concerning the objectives of:

   —Effective goods transportation (Section 1.1.1)
   —Private ownership (Section 1.1.2)
   —Effective competition (Section 1.1.3)

   And the principles of:

   —Fairness (Section 1.2.1)
   —Participation (Section 1.2.2)
   —Moderate Change (Section 1.2.3)
   —Cost Recovery (Section 1.2.4)

   As well as the proposed commitment to monitor results and impacts.

2. Accept the mechanisms for regulatory reform which are contained in Section 2 of this report. This endorsment should be subject to ongoing review and elaboration of the detail of these mechanisms by the implementation process outlined in Section 3 and by the need to adjust where adverse impacts or changed circumstances may require. On this basis the Government should endorse the general concepts proposed in Section 2 for:

   —Licence simplification (Section 2.1.3)
   —Revised entry tests—fitness and market (Section 2.2)
   —Simplification of Board procedures (Section 2.5.2)
   —Provision for policy direction and appeals (Section 2.5.3)
   —Performance control—including implementation of CVOR (Section 2.4)
   —Improved enforcement (Section 2.6)

3. Act as quickly as possible to establish an implementation framework as outlined in Section 3. This will require a strong ongoing commitment to shared control of the process and of the detail of implementation, among Government and the various industry groups which are involved in the highway transportation of goods. The key to this joint approach is the Implementation Steering Committee outlined in Section 3.1.1, but equally important will be the various other groups and mechanisms outlined in Section 3 as well as the close co-ordination of the reform of the PCV Act with other regulatory change in the area of truck safety (the Uffen Commission Report) and the transportation of Dangerous Goods.

4. Adopt the principle of a phased implementation and transition process as outlined in the implementation schedule contained in Section 3.2 of this report, and subject to the shared control implementation mechanism outlined in Section 3.

   The first priority of this process should be to undertake the rewriting of existing PCV licences to simplify and rationalize them so that the present operators have every opportunity to adapt and to re-position themselves before any new entry tests are introduced.

   To this end, Government should establish a control period effective upon the date this report is tabled which will distinguish those carriers already in business or who have made application as of the tabling date, from those who become for-hire carriers after this date. The licences of existing carriers should be given first access to the new licensing system, as detailed in Section 3.1.6 on the rewrite process.

1 Objectives and Principles

The purpose of regulation is to achieve results that otherwise may not be achieved without it. In assessing regulation, or in proposing reforms it is essential to identify the results desired. The desirable results will relate to the ultimate ends, and may also relate to the manner or means by which they are achieved.

Distinctions between ends and means are useful in building a conceptual framework for regulation. Ends may, however, be considered as means simply by viewing them from a "higher" level. We claim, for example, that an end of regulation must be an effective goods movement system; but this is because we see goods movement as a means to the economic and social well-being of the Province.

We believe that private ownership and initiative constitute the best means of achieving effective goods movement. This in turn depends on an effective market, as the means of harnessing private activity to the general interest. Both these means of achieving effective goods transport we regard as fundamental and of such central importance in economic regulation, that in our framework we give them the status of "objectives".

There are other matters, less central to the structure of the industry, but nonetheless important to our view of how the industry should be regulated. They may be harder to achieve universally, but they should be considered in all regulatory procedures and outcomes. These we have labelled as "principles" in our framework. They include: fairness, local participation, and moderate change or renewal.

The results produced by the regulatory structure we have proposed must be consistent with the objectives and principles. It is important, if there is to be managed change (renewal) in the system, that these results be defined, deliberately monitored and assessed.

A Framework for Regulation

These are the three subjects of this section: objectives, principles, and results.

1.1 / Objectives

The new regulatory system must have clearly identified objectives.

An intermediate service like transportation is subject to many and inevitably conflicting demands. The industry is diverse and composed of many quite different parts. Even where objectives can be comprehensively defined for regulating such an industry, we are left with outcomes to balance and problems of degree in trying to use the objectives to structure the regulatory system.

Balancing Outcomes

The basic balance that must be found, as indicated in so many previous examinations of this kind, is between "productivity" and "fairness", or between "flexibility" and "stability". The reforms we propose were initiated by concerns about productivity and flexibility, but we have invested more time and effort in the search for fairness and stability. We believe that gains can be made toward both objectives.

1.1.1 / Effective Goods Transportation

The most basic objective or statement of public interest in trucking, is that there should be an effective highway goods movement system in Ontario. The goods transportation system is universally regarded as more than a convenience, it is a necessity. If the system fails, or declines in effectiveness, then all other achievements in efficiency or fairness lose importance and

relevance. So basic is this point, that it is generally taken for granted (and will be taken for granted in the remainder of this report). But it demands explicit recognition and acknowledgement at the outset.

An "Effective" goods movement system is taken to be one in which there is widespread confidence and "legitimacy". Its main characteristics would be that it is competitive (adaptable, flexible, innovative), and responsible (open, pursuing reasonable risks).

The motor carrier system in Ontario is acknowledged as generally effective but limited. It is the apparent limitations created by the PCV Act on flexibility, innovation and productivity within the system that have animated this review. Any gain in productivity is regarded by both shippers and carriers as a gain in effectiveness of the system. Prospect of such gains has attracted the Committee to improving the framework of regulation.

The motor carrier industry is too important to the economic well-being of the Province to have made no provisions against its failure. It is our own inclination as well as those who responded to our Discussion Paper, that government must remain capable of regulating trucking. The function of regulation should be to moderate instabilities or inequities of the kind that would rob the system of the confidence it needs to remain effective. In the threat, however remote, of commercial failure of the industry in Ontario, government has the responsibility to intervene through the regulatory mechanism.

1.1.2/ Privately Held

We believe that private ownership provides the best means of achieving an adaptable, diverse and stable motor carrier system. The for-hire carrier industry should be privately owned. There should be no direct provincial government ownership of trucking companies.

Viable

Collateral to this objective, the industry must be viable; that is self sustaining and capable of attracting capital for innovation and renewal. It must be profitable on average. This does not imply that inefficient or poorly managed carriers should be protected.

Intervention

Public policy should be to intervene only to police and safeguard the service market. There would be regulatory intervention when performance or loss of confidence threatened collapse of competition in any market. No longer would there be intervention on behalf of any single business interest. The industry has matured beyond the point where such business guarantees are necessary or effective.

Public Obligations

Information and accurate market signals will be vital to effective decision making by regulators, customers and investors alike. Informed decisions will be required to achieve productivity growth. Regulators will certainly require such information if they are to anticipate failing markets. The availability of clear information and signals is part of the purpose of the regulatory system we propose.

Public obligations imposed on for-hire carriers by the regulatory system would be to operate safe services within the law, and to declare certain information on entry, and about operating performance.

1.1.3/ Effective Competition

Both shippers and carriers identify benefits in competition. Shippers benefit from opportunity to seek alternatives and innovations adapted to their particular needs. Carriers benefit from flexibility to specialize or diversify, expand or consolidate as opportunities arise. But to maintain the confidence of all participants opportunities must be seen to be equitable and fair.

"Effective", "good", "fair", or "equitable" competition is a market which enjoys continuing confidence and legitimacy among participants. Intuitively,

the characteristics of this competition are that transportation managers have the opportunity and latitude to make business decisions based on business factors. There must be balanced opportunities to compete in a market which is open to responsible operators. Everyone must be subject to the same rules. Participants should be able to assess the risks and responsibilities of operation, then live with them.

Market Failure

Competition is ineffective when the market is reduced by either concentration/domination or by fragmentation/over-capacity. These familiar nemeses of the market have always been the concern of the industry and of regulation, and they continue to be. We believe, however, that these failings will be contained adequately by a few simple regulatory safeguards.

Regulating predatory practices or non-compensatory prices would remove the principal device for achieving dominance. If a single carrier should end up in control of a market through acquisition or merger for example, monopoly prices can be prevented by maintaining a simple entry process, and the threat of new entrants. No carrier should be able to use the regulatory system to protect his own position or to create a monopoly.

The threat of fragmentation and over-capacity can be reduced by making sure that entrants are aware of the current market situation and of the consequences of their decisions.

Stability

One other hazard which can chill effective competition is sudden or devastating change—that is instability, disruption or dislocation. There is no way that the regulatory system could or should prevent change, and there will always be winners and losers in the process of change. But we do think that regulation can make the process of change more "fair", by helping to make signals of change (information) more available, and by moderating the pace of events to allow participants to respond and adjust. This is particularly important during times of extraordinary change or transition.

In the long run, regulation cannot "protect" the market. It can only make it more predictable. The effect of this is to make it more manageable and efficient. The means to do it is to make sure that information is available, that participants act responsibly, and that change is made more visible and manageable.

This should help reduce constant turnovers in the industry. The stability which must be maintained for effective competition, however, is continuity of the overall market, not individual carriers.

Competition Legislation

Our concerns with concentration, over-capacity, predation and maintaining effective competition are the same as the concerns of general competition legislation. We believe it would be premature to rely exclusively on existing competition laws in all these matters. At this time the industry has more confidence in the transportation legislation and the Transportation Board.

1.2/ Principles

The concerns classified as "principles" we believe are as important as "objectives", but they cannot be said to be the central purposes of regulation. Instead they make important qualifications on the way regulation is structured and guided.

1.2.1/ Fairness

Confidence in the regulatory system will depend on how fair and reasonable it is perceived to be. The effectiveness of the motor carrier system will be a function of this confidence. Compliance with the legislation will also be a function of confidence in the system, and the perception of fairness. The principle of fairness has guided our preferences in balancing the overall trade-offs, and our attention to transitional issues.

A regulatory system which defies understanding has little chance of being perceived as fair. The importance we attach to outlining the objectives and principles of regulation, is related to our belief that it is necessary to understand its purposes, before anyone can consent to its fairness.

Simplicity

The complexity of the mechanisms of regulation will also influence the perception of fairness, and the costs and difficulties of compliance.

Complexity of the existing regulatory system has attracted as much attention and comment as any other issue in the review. It is the source of much of the burden of confusion, costs and inflexibility in the regulatory system. One of our main purposes has been to simplify the structure and processes of regulation.

The chief problem with simplicity is that it can miss reality. Oversimplified assumptions about the industry or oversimplified systems of regulation are bound to produce unexpected, perhaps undesired results. Attempts to regulate by a system which does not reflect reality are bound to produce inconsistent decision-making. Once again our effort has been to locate the right balance in this trade-off between simplicity and reality.

We prefer the least amount of regulation (complexity) which will produce results consistent with our objectives. We want enough structure and process to reflect realities and diversity of the market, and to achieve internal consistency within the regulatory system.

Duplicate Regulation

We prefer to avoid regulatory duplication wherever possible. For example, we think that duplicate regulation of trucking between the Province and the municipalities can be reduced. A carrier holding an operating authority issued by the Province should be exempt from municipal licensing by-laws regulating carriers which operate solely within such municipalities.

The new regulatory system should be compatible with other Canadian jurisdictions. And we think that regulatory tests and procedures should be the same for extraprovincial as for intraprovincial licences. There are differences between municipalities and between Ontario and other provinces or the United States, and these must be recognized and dealt with. But municipal, provincial and extraprovincial trucking should be regulated in the same basic ways to maintain simplicity, fairness and equitable competition.

1.2.2/ Participation

One difference that must be acknowledged is that locally domiciled companies can react differently to local economic circumstances than non-domiciled companies. This can sometimes be an advantage and sometimes a disadvantage. Once again this issue presents a difficult problem of balance.

We think that it is important for the long run benefit of the Province that there should be a degree of participation by Ontario suppliers in all segments of for-hire trucking. There should be enough local participation to at least influence fleet disposition and service strategies, especially in times of local distress, and for national defence purposes. There should be some corporate commitment or stake in local development and welfare.

Appropriate levels of participation should be required of all trucking companies doing business in Ontario, whether within or into and out of the province. Participation might include employment, payment of taxes in Ontario, assets situated in Ontario, or a number of other possibilities. It need not refer only to control or ownership.

The most appropriate means of participation, and the appropriate degree of participation we have not been able to resolve, and they will surely vary with each case. This is one area where we feel detailed objective tests will be difficult to devise and where precedents will play an important role. We expect that participation will become an issue only rarely; but it is an

area of discretion we recommend should be placed in the hands of the Transport Board.

We do not argue for a protectionist or "Ontario first" policy. We think that could only lead to destructive reciprocity wars; and we favour a free flow of goods, services, capital and labour across Ontario's interprovincial boundaries. But we are concerned about possible domination by non-domiciled carriers. Ontario carriers should not be placed at a regulatory disadvantage in relation to their competitors who are domiciled in other jurisdictions.

1.2.3/ Moderate Change

We believe it is a duty in both public and private sectors to moderate change. That is, to monitor events, interpret change, and renew and redirect affairs to adapt in tolerable, nondestructive steps.

Monitor Regulation

This present review we believe to be an overdue response to change in the trucking industry. We recommend that specific effort be dedicated to monitor events in future, so regulation does not fall so far out of date again. In particular, we think that the reforms we are recommending here will require close monitoring. The reforms have yet to be detailed and implemented, but we can anticipate that some will succeed less than others in achieving the objectives. Government should be prepared to respond to failures or opportunities to further simplify the regulatory system. This will make reform as "fail safe" a process as possible.

The regulatory system should be subject to a continuing review. We recommend that a government industry body be established for this purpose. We also recommend that a comprehensive re-assessment of regulation should be conducted after five years of experience has been accumulated with the new system.

Consultative Process

An essential aspect of the mechanism for moderating reforms is that it be a consultative process. The PCV Review process itself has proven the virtue of consultative mechanisms. We anticipate that the analysis of issues and subsequent compliance with legislation will be better if shippers and carriers are involved along with government. We are recommending that much of the design and implementation work which lies ahead to introduce recommendations of this report should be conducted via consultative mechanisms. Consultation is the best means to moderate reforms.

Time to Adjust

A further element of this general principle is that transitions be designed so that major disruptions and dislocations are less abrupt. We are recommending an agenda of change in Section 3 which is spread over several years. Both the substance and the timing of changes we are recommending are designed to make transitions tolerable and feasible.

This same principle is fundamental to the purposes of regulation itself and the discretionary powers we think the Board should have. The purpose is to stabilize the course of change in the industry, so that participants feel that the process is tolerable and fair, and to improve confidence and efficiency of the market. Change must be moderated so that, as much as possible, participants have "time to adjust" (learn/react/withdraw). This is a theme that runs through all of our recommendations.

1.2.4/ Cost Recovery

Fees and licences should cover the costs of administration, and not be used for tax or fiscal purposes. Fees should be balanced more equitably between private and for-hire trucking.

We recommend that the PCV licence fee be eliminated and administrative costs recovered from Commercial Vehicle and Commercial Vehicle Operator Registration fees.

Transport Board costs should be recovered from application fees and cost assignments in hearings.

We consider enforcement of the PCV Act to be part of general enforcement and policing duties of the government. The capital costs of enforcement systems, such as development of CVOR, should be funded from General Revenues.

The operation of the policing system must also be allocated sufficient funding from General Revenues. The users should be expected to make some contribution to the General Revenue Fund to support the operation of these services.

1.3/ Results and Impacts

We would like to see more active "results awareness" among the parties to regulation: shippers, carriers and government.

The duty to moderate change outlined in the above section implies a duty to monitor events and interpret them with respect to expectations or objectives. Only in this way can the failures and successes be located, and the wrinkles in reform be ironed out.

There are three levels of result to be assessed. The first and foremost is whether economic regulation of the kind we outline here is really the solution to the broad concerns we have identified in Section 5.2.1. These broad concerns will tend to shift and mature over time, perhaps rendering our concepts of regulation obsolete. New concerns will clearly arise if the reforms have unexpected or adverse consequences. Keeping track of the shifting needs and concerns is essential if regulation is going to adapt to those needs and concerns.

The second level of assessment is whether the regulatory instruments are effective in producing the results we expect.

Lastly we are concerned that the instruments be implemented and administered as intended.

To monitor results and redirect regulation will require commitment of time and resources. We trust government will take its accountability in this respect seriously, and make those commitments. We think that participants should have a role to play in tracking results, as outlined in our proposal for an Implementation Steering Committee in Section 3.1.1.

One of the resources required will be information. There is currently no adequate data base from which one can determine the current size and nature of the trucking industry, let alone the health of the industry. It is essential that this data base be developed so that results can be assessed, and reforms can be shaped and guided in the future.

Our recommendations on how this resource should be assembled are contained throughout the report, and especially in Section 2.4.2.

In the remainder of this section we outline the indicators, targets and benchmarks by which we think it is reasonable to assess results. The purpose in each case is simply to verify in some way that results have been achieved. Where the target or result cannot be measured directly, we suggest some proxies or indicators. Many indicators beyond those we suggest here need to be developed. Where quantifiable measures are not possible, results should be assessed in intuitive and narrative terms.

1.3.1/ Evaluation of Effects

The most difficult area of assessment is weighing the broad effects of regulation. Separating effects of regulation from other influences involves more judgment than science. Just because the assessment becomes judgmental and descriptive, rather than quantified, makes it no less essential.

It is important to at least identify effects, so that they can be judged desirable or not. This is the kind of comprehensive review we believe should be repeated at the end of 5 years.

The first task in this direction is to simply discover the effects. Many will be the intended effects outlined below. But we are just as concerned about unintended and adverse effects. There should be some effort to identify these as they appear.

Interjurisdictional Issue

One effect about which we are uncertain is the interjurisdictional implications of reform. It is a dynamic area, as all jurisdictions are constantly adjusting. But we want no increased impediments to the movement of goods in and out of Ontario. While we do not seek complete uniformity among all jurisdictions, we would not want to upset the compatibility of regulatory regimes. Incompatibility will create complexity and ultimately impediments to trade. Finally we want to create no undue advantage to carriers domiciled in one jurisdiction or another.

We recommend in Section 3.1.7 that a symposium should be commissioned within a year, as part of the public information program, but also as one means to identify interjurisdictional implications more clearly.

Local Participation

The level of participation in the industry by local suppliers is another area of uncertainty that we feel should be traced. Because we have no level or target to recommend, we suggest the existing level of participation by Ontario residents be used as a benchmark. The level of participation by Canadian domiciled carriers in the international trucking market between Ontario and the United States should be tracked as well.

Other outcomes to be monitored in which we expect favourable results include the following.

Confidence

We expect increased understanding and confidence in the regulatory system. A proxy for measuring this might be the rate of voluntary compliance with the PCV legislation. Another measure of confidence in the for-hire industry might be the share of trucking activity held by the for-hire sector. We would expect this share to rise as a result of the reforms. Another indicator of confidence is the level of equity investment in the for-hire sector.

Fairness

Increased fairness is a quality which will be difficult to assess. The level of confidence may be a good proxy.

Responsible

We also expect responsible performance to be a quality of the trucking industry. Responsibility would be characterized by safe operations, responsible business practices, and declining levels of non-compliance with legislation.

We also expect that the marketplace for trucking services will be intelligent, competent, diverse and evolutionary. These will be qualities which can be judged only on a subjective basis.

1.3.2/ Outputs

The outputs are the explicit objectives proposed for regulatory proceedings.

Privately Held

We have the objective that the industry should be in private hands and be viable. The level of Provincial government ownership in the trucking industry is a measure to assess departures from this objective.

Profitable

Viability or profitability would be indicated by the average operating ratio and return on net assets employed in each significant industry segment.

Diverse Competition

The number of different companies and different types of service in each segment of the market would be an indicator of diversity. Diversity may decline for economic reasons, but it should not be reduced by economic regulation.

Domination

Regulation should inhibit domination. As the degree of capital, business acumen, managerial skill and marketing sophistication increases, there may be a tendency towards concentration. The "market test" (Section 2.2.3) is proposed as a control mechanism in this tendency. The degree of concentration in each market segment should be tracked.

Over-capacity

Parts of trucking characterized by low financial barriers, little advance planning, and large numbers of small units, may not be able to manage capacity according to market signals. The dump truck sector has indicated some of these problems in the past, and the truckload market may be subject to similar weakness. The "fitness test" (Section 2.2.1) is proposed as a control mechanism in this process. Over-capacity could be monitored through equipment utilization indicators, and relative business failure or exit rates in each segment of the industry.

Costs of Compliance

We expect some industry costs of compliance with regulation to decrease. These costs include at least legal and paperwork costs, cost of producing witnesses, and attending hearings. Since we do not know what these cost are now we cannot specify a target for the future. We recommend that attempts be made to determine the incidence of these costs and to track suitable indicators. The benchmark should be that total public and private costs should decrease by virtue of the reforms.

1.3.3/ Administration

In Section 3.1.1 we recommend that an Implementation Steering Committee be created to monitor the implementation of reforms and the administration of regulatory instruments. This would include assessments of levels of activity in each of the regulatory processes, and their efficiency.

Failure Rates

Both shippers and carriers are concerned that the regulatory control mechanisms be used responsibly.

The reforms to the entry test are proposed so that the market becomes a stronger arbiter of entry success or failure than the government. If in practice the market test is exercised more than the current test of public necessity and convenience (p.n.&c.), the Board would be intervening more than intended. On the other hand, if in practice a large number of applicants are unable to meet reasonable fitness standards and the Board lowered the standards just to increase entry rates, it would be intervening less than intended.

Entry application failure rates should be monitored for the fitness test, and market test. Business failure rates should be monitored in each segment of the market.

2 Instruments of Regulation

All of the traditional instruments of regulation should be retained, but we have reforms to recommend in each one of these instruments.

The licensing mechanism should continue to be the main instrument of regulation; but the structure of licences should be simplified. This would reduce the worst source of complexity and inflexibility in trucking regulation.

The entry test is considered to be overdone in the existing system. We recommend that it be revamped, changing the focus and burden of proof.

Performance regulation is viewed as too weak in the existing system, and we recommend a more systematic approach be taken and the existing sanctions be administered to greater effect.

These are the main elements of reform we recommend. Their consequence will be to change the focus and effect of economic regulation. Regulation would become less focused on entry and more focused on performance.

Section 2 outlines the reforms in the major instruments of regulation. The substantial problems of detailed design and transition are not resolved here. Some are discussed further in Sections 3 and 4, and much is left to the implementation process for resolution.

2.1/ Licence

The licence or authority to operate for-hire is the fundamental instrument of regulation. To be effective, the structure of licensing should parallel the structure of the industry. The licence structure becomes a means of referencing services in the industry. It has important consequences in terms of flexibility of operations, and impressions of complexity. While the industry is indeed complex, we think that the existing licence structure is needlessly complex. It has been the focus of a great deal of debate and discussion within the Review Committee.

The principle employed in proposing changes to the licence structure is that simplicity can be improved by using a system built up of standardized terms, which are defined exclusively. That is, there should be no overlaps or omissions among the building blocks. This permits much more simple descriptions, which can be changed or combined more easily as the need arises. We would like to see the system moved as far in this direction as possible as soon as possible. The Implementation Steering Committee will have to decide on the feasible pace for this change.

2.1.1/ Public Commercial Vehicle Authority

The PCV Licence divides carriage of goods with commercial vehicles into two legal classes: the class which must be licensed, and the class without licences. For-hire carriers must be licensed. Private, exempt and illegal carriers haul without PCV licences.

Inclusions

All hauling for compensation with commercial vehicles must be conducted under the authority of a PCV Licence.

Exclusions

The types of transportation service which would be exempt from PCV Authority include the following:

- where no commercial vehicles are operated directly; that is where no CVOR is required (Section 2.1.2)

- Private Carriage; that is, where the CVOR holder has an owner's interest or an insurable interest in the goods, and where the goods are transported incidental to a non-transportation business
- Cartage operations lying completely within a "lower tier" or urban municipality
- operation of farm plated straight trucks
- transportation of fresh fruits and vegetables grown in the U.S.

Hauling for compensation between members of a corporate family of companies is considered as private trucking under certain circumstances. What circumstances is an issue under current examination by another committee. The Implementation Steering Committee (Section 3.1.1) will have to incorporate the findings of that committee into the definition of scope of PCV Licence requirements.

The following transportation services would require PCV Authority but would be exempt from the market test and be subject to a fitness test only:

- transportation of garbage or trash
- carrying raw and unprocessed produce from the farm and forest (other than poultry and livestock).

The current exemption for ready-mixed concrete would be redundant under the definition of private carriage. The current seasonal exemption for fertilizer may also be redundant under the new Act. We refer these issues to the Implementation Steering Committee for clarification.

Intermediary services such as forwarders, leasing companies, brokers, consolidators, co-operatives, pooling companies, etc. will need no PCV authority if they require no CVOR of their own (ie. where they operate no vehicles. An "operator" is the person who takes responsibility for the vehicle; it does not refer to the ownership of the vehicle or the employment of the driver). They will need PCV Authority where they do require a CVOR.

Purpose

The effect of the licence is to give the government the means to prevent entry of unfit companies or to prevent the destruction of viable competition in the for-hire trucking industry. It outlines the service to be provided by the company. On entry, it certifies that the company was found fit and reasonably able to provide the service to the full extent of the licence.

Obligation

While there is an obligation to operate a safe and responsible business by virtue of the CVOR (Section 2.1.2) there is no obligation to operate all parts of the licence continuously. The Board will occasionally, and at least every five years, review with the carrier the outlines of what he is willing and able to serve, and revise the licence specifications accordingly. The intention is that the licences provide a reasonably current description of services available, and a five year review of each licence should fill at least this housekeeping function. The correspondence between the licence and the service provided is referenced further in Sections 2.2.1 and 2.4.1.

One Way Leasing

Trip leasing between CVOR holders would be allowed, subject to the requirements of the CVOR administration system. The requirements for CVOR notification and transfer must be defined during the implementation planning process. The requirements would have the effect of limiting the duration or frequency of leasing to periods greater than some minimum time period.

The intent is that one-way leasing should be available to improve fleet utilization. It is not intended as a primary means of conducting a transportation business.

Transfer

A PCV Authority will be non-transferable, except where there is no change of ownership, such as in changes of name.

2.1.2/ Commercial Vehicle Operator Registration (CVOR)

We are convinced that the new Act will mean nothing and achieve no improvements, unless it is properly enforced. The CVOR (Commercial Vehicle Operator Registration) appears to be the appropriate instrument by which to achieve enforcement. All other recommendations are contingent on the success of CVOR, or of any alternative method or device to achieve the same thing.

The CVOR as recommended by both the PCV Review Committee and the Uffen Commission on Truck Safety is intended to tie together carrier responsibilities for safety and the performance of statutory duties with respect to the vehicle, load and driver. We anticipate that the government will proceed with the development of CVOR as recommended by the Uffen Commission, and that it will be possible to implement CVOR when new PCV legislation is introduced (See Section 3.2).

Scope

Under this system, the Highway Traffic Act would require any individual, partnership or corporation who owns, leases, or otherwise acquires or arranges for his own use a commercial motor vehicle for the purpose of transporting goods, to obtain a Commercial Vehicle Operator Registration.

This requirement would apply to all trucks, private or for-hire, travelling into, out of, or through the province, regardless of domicile.

The CVOR will help distinguish legitimate private operators from illegal private operators (eg. private operators hauling for compensation illegally). It will, for example, simplify multi-level leasing situations for enforcement purposes.

Only the beneficial owner of a vehicle will be able to register the vehicle, and such registration should only be in the name of the beneficial owner. The CVOR registrant will be responsible for paying the insurance requirements. When in use, the CVOR should impose upon its holder full legal liability for the vehicle, the driver, and the cargo, and the liability will not be transferable except as incidental to the legitimate transfer of freight.

Operator

An Operator (or carrier) is defined as the person or business assuming liability for the conduct of the business operation and its drivers and vehicles. It does not refer to the ownership of the vehicles or the employment of the drivers. Operator registration would be unique to each operator, and could not be transferred.

Owner Operator

Certain adjustments to the concept will be required to accommodate the owner operator. It is the Committee's intent that the owner operator be able to lease himself and his vehicle exclusively to any CVOR holder (for-hire or private), without having to transfer ownership of the vehicle.

Responsibility

The carrier operating record (CVOR file) would be used as an instrument of performance regulation. Any operators seeking competitive advantage through non-compliance with the PCV Act, Highway Traffic Act, the Labour Code, Dangerous Goods Code, or other legislation would risk his motor vehicle operating privileges.

2.1.3/ Licence Specifications

The system used to specify operating authority establishes the building blocks for putting operations together or rearranging them when desirable. It also dictates the complexity of the enforcement task in interpreting authorities. The system should be flexible enough to allow easy matching with equivalent descriptions in neighboring jurisdictions.

The terms used will become the basic building blocks for conducting market tests. They will also become the natural means of referencing services and analyzing investments or the state of the industry.

We think more generic and more systematic methods can be developed to specify licences, and that this will have a major impact in simplifying regulation of the industry and making services more flexible.

The terms used must remain specific enough however, to reflect reality. It must be possible to describe any services quite closely for the purposes of the fitness test and for business reasons. We want to avoid blanket type licences or overly loose specifications of service a company wishes to provide.

We believe there should be a commitment to balance flexibility with reality, but to gradually loosen the system by going to more generic terms as time goes by.

The building blocks by which to specify licences should include:

geography
service type
commodity/equipment

Geography

Geographical units would be based on political boundaries: lower tier municipalities, commercial zones, towns, cities, townships or counties. Geographical limits should not be specified by landmarks, addresses, routes, distance or radius definitions. This would also eliminate the 5 kilometre privileges now attached to cartage rights.

Service

Service to be provided within these geographical limits should be specified as either "to/from", "between", or "within" type service. Services to, from and between points should include the authority to haul "within" those points. Service might be limited to truckload (TL) operations. No other limitations of types of service could be imposed by the PCV authority.

Common and Contract would no longer be distinct classes of service. All carriers would be licensed simply as "for-hire".

Commodity/Equipment

PCV authority could be limited to classes of commodities/industries no smaller than defined by the 3 digit level of the Standard Industrial Code (SIC). Other permissible terms by which PCV authority may be specified should include:

General freight
Used Household Goods
Air freight
Parcels
Auto carriers
Tank trucks
Floats
Dump trucks
Tilt n' load

Named Shipper

The named shipper authority should be phased out. No new named shipper licences should be issued, and those that are not eliminated in the licence rewrite process (Section 3.1.6) should be sunset 5 years after the new system is introduced.

Fleet Restriction

Restrictions on the number of power units would be allowed for probationary purposes only.

Commercial Zones

Commercial zones should be reviewed and new ones created if necessary by general proceedings of the OHTB. They should be created from combinations of lower tier municipalities as specific solutions to specific circumstances. Once created, any PCV authority within the commercial zone would be rewritten to include the entire zone, and no PCV authority would be granted for less than the full zone.

Municipal Licences

Provincial authority to operate to a municipality should include the right to operate within the municipality, without further requirement for municipal authority. No PCV licence would be required to operate completely within a lower tier municipality, though a municipal licence may be required.

Implementing New Specifications

The Implementation Steering Committee should be given the task of refining the terms to be used in specifying licences, and phasing the schedule to

introduce these terms. The phasing would become an important element of the licence rewrite task (Section 3.1.6). There should be a commitment to work towards a simplified, more general system, subject to the need to monitor the industry in some detail. The entire scheme for specifying authorities should be reviewed in the general review to be completed after five years.

Commodity Code

The selection of an appropriate commodity code is a task of particular importance and urgency. We think there may be merit in going to the Standard Industrial Code (SIC), as opposed to a commodity index. In either case, there should be a transition towards more generic specification. Provision could be built into licences themselves to go from a 3 digit to a 2 digit level after three years or some given time period.

2.1.4/ Industry Statistics

Current and accurate data on the trucking industry can enhance efficient decision making by all participants: customers, investors and regulators. An industry data base will be essential to the functioning of the market test (Section 2.2.3), and to the general monitoring of the effects of reform (Section 3.1.1).

Minimum Necessary

Data collected should be the minimum necessary to monitor the whole realm of industry performance and safety. The task of collecting and maintaining the data should be assigned along with appropriate resources to the OHTB. Practices and precautions similar to those followed by Statistics Canada should be used to maintain data confidentiality and the publishing of data for public use.

Confidentiality

Reporting

All for-hire carriers should be required to report certain data to the Board twice per year. The information should be certified as extracted from audited statements. There should be penalties for failure to file on time, or for filing false information.

The procedures for establishing and maintaining the data base should be implemented at the earliest possible date, so that a reasonable history is available on the effects of reform.

The following information should be filed:

- Total Revenue
  subdivided into international, interprovincial, and intraprovincial revenues
- Percentage Profit
- Operating Ratio
- Total Debt
- Total Equity
- Total Miles
- Empty Miles
- Number of each type of trailing equipment licensed for operation
- Number of employees classified by administrative, owner operators, drivers, maintenance and other.

The task of defining these terms and the procedures for data collection and dissemination should be assigned to the Implementation Steering Committee (Section 3.1.1)

2.2/ Entry Tests

We propose that the test of public necessity and convenience on entry be abandoned.

In its place we recommend a fitness test be employed, to be supplemented in appropriate circumstances by a market test. Both would employ

declared standards, which would make them clearer and more objective than the test of public necessity and convenience.

The fitness test would be a simple non-adversary examination of qualifications of an applicant to determine if he meets published entry standards.

The market test would be invoked only by protest, and would take the form of an adversary proceeding. A strict protest qualification process would be used to insure that the market test is initiated only in appropriate circumstances.

Access to a hearing procedure would still be available on appeal from either test.

We believe that the market test hearings will occur only in rare and unusual circumstances; certainly significantly fewer instances than is the current case with public necessity and convenience hearings. In the future review process, the results of the protest standards should be monitored. As far as the results appear satisfactory, more regulatory controls on entry can be removed.

In the hands of the Board, these tests will be used to qualify new entries and expansions. Both tests are briefly described in this section. The use of the tests and the various outcomes are outlined in the section on Board powers and process (Section 2.5).

2.2.1 / Fitness

Purpose

The result of the fitness test should be to limit the flow of uninformed or impulsive investors, and to inhibit oversupply of capacity. It should help improve the calibre of first time entrants, and the quality of competition for all, especially among first time entrants. It is not, on the other hand, intended or likely to prevent failures among new entrants, and financial analysis will certainly not eliminate investor risks.

But going through the discipline of a fitness examination should weed out incompetent or insufficiently prepared applicants, and help applicants and their financial backers go through a thoughtful process of assessing the market and what they are proposing to do. It should encourage and assist investors to consider the condition of the market and the current state of supply.

Process

It would be conducted as an examination by a Board Examiner, and not an adversary proceeding. The nature of this test and the way it is conducted should do much to dispel the image that an entry test is only for protecting existing licence holders.

Scope

All applicants for PCV authority, extensions or takeovers, must undergo a fitness examination. This includes applicants from other jurisdictions seeking authority into the province.

The information which must be submitted with the application for the fitness test, would include:

- Name
- Authority requested
- Authorities now held
- CVOR and Safety record
- Certificate of Competence
- Proof of Insurance
- Financial Structure and Identity of Backers
- Operations Plan and Business Plan
- Assets situated in Ontario.

Participation

A carrier wishing intraprovincial authority would have to establish a place of business in Ontario. A place of business for this purpose should be a *bona fide* establishment from which the management and operation of the busi-

ness is to be conducted, including the housing of vehicles and the records of the company.

Business Plan

The Business Plan should include: assets, traffic volumes expected, tariffs and revenues expected, fixed and variable costs, and a bottom line. The applicant must demonstrate that he is financially capable of operating the business.

The plan need apply only to the authority or extension being requested; but it should relate closely. Applications for authority which extend far beyond the ability to serve, or beyond any plan or intention to operate, should be turned down. The plan and the licence should correspond. The fitness findings should relate specifically to what the applicant is willing and able to serve.

Certificate of Competence

One of the most important components of the application relative to the purposes outlined above is the certificate of competence. Not all applicants would need to meet the same level of competence. The standards that might apply and procedures to obtain certification are outlined in more detail in Section 4.2.

2.2.2/ Protests

Notice

Once an applicant has satisfied the fitness examination, the Board would publish in the Ontario Gazette their intention to award a PCV authority subject to protest within some reasonable time period, such as 30 days.

Detailed information on the application would be released only to qualified protestants.

Qualification

The grounds and conditions on which an application might be protested must be controlled. Protests would be subject to strict qualifying standards by the Board to prevent frivolous protests. If the Board should grant leave to protest, an adversary hearing would follow. It is the intent of the qualifying procedure however, that such hearings would result in fewer instances than in the present system. One of the issues on which the reforms should be judged in future monitoring, is whether the incidence of hearings has actually been reduced or not.

Protests might be launched on either of two grounds: a) fitness of the applicant, or b) granting the application would not contribute to the objectives (eg. unacceptable deterioration of the market). The purpose and nature of the second of these two tests, the market test, is described further in the next section.

While anyone might protest the fitness of an applicant, the market test would be open only to those who can establish that they themselves have a demonstrable interest in access to the market covered by the application.

In summary, the protestant must satisfy the Board on two matters, on either of two grounds:

	Fitness	Market
Standing	Anyone	Participants within the scope of the application.
prima facie evidence	Different facts. Misrepresentations	More than one respondent (a single respondent is weak evidence of market destabilization) Predation. Concentration. Over-Capacity.

In both establishing and qualifying protests on the grounds of market disruption, the market statistics to be maintained by the Board (Section 2.1.4) would be an important source of evidence.

Burden of Proof

It is significant that the burden in this procedure would lie upon the protestant to first establish, then prove his case. In the traditional test of public necessity and convenience, the burden has been upon the applicant to prove that disturbing the status quo would be in the public interest. In this new procedure for contesting an application, the burden would lie upon the respondent to prove that disturbing the status quo would *not* be in the public interest.

Costs

Costs should be awarded from all hearing proceedings. This should act as another deterrent to frivolous protests.

2.2.3/ Market Test

Process

Where a qualified protest is received within the given time period, the Board would initiate a hearing. It would be a directed or fact-finding type of hearing, in which the Board might pursue its own line of enquiry or investigation, as well as providing the opportunity for the adversaries to argue their cases.

Purpose

The issue to be pursued in the market test hearing, is not whether any individual carrier or participant in the market will suffer a competitive disadvantage at the hands of the applicant. Rather the issue is whether all participants, present or future, will be denied a fair opportunity to compete. In other words, will the new service damage accessibility to that market?

The purpose of having this test is to provide a braking mechanism or a safeguard against changes in the market which might be particularly disruptive, damaging or undesirable. It is designed as a protection against undesirable concentration or chronic over-supply problems. It is intended to stabilize the system against wide swings. One such threat in which this test might be employed, is the threat of domination of Ontario markets by giant competitors from the United States.

It is not intended however, that the Transport Board should perform as a "marketing board" managing capacity in the industry. Nor is it intended to protect the position of any particular carrier in the market. The most effective carriers should always prevail. It is intended only as a braking mechanism and safeguard against market collapse. Each case would be judged on its merits, but it is assumed that gradually the body of jurisprudence would develop general criteria and standards for proving these harms; for example, what sustained failure rate in the industry should be judged as demonstrating market collapse due to over-capacity?

Public Interest

It is also anticipated that other tests of the public interest might surface in the future, to be adjudicated in the market test proceeding. Indeed, if the government should determine there were essential matters of public interest at issue in any particular case, the government might declare the public interest.

We recommend that after a hearing has been granted, but before proceedings commence, government have the opportunity to issue a policy statement or guideline on the public interest to be considered during the hearing.

Appeals

The final determination by the Board would be appealable on matters of fact, procedure, or law, including the guidelines issued by government in advance of the hearing. The matter of appeal procedures is dealt with in more detail in Section 2.5.3.

Review

It is also intended that the effectiveness of this whole market test device be monitored closely over the initial years of its use. Should it prove ineffective or unnecessary, further reforms should be instituted after the next review.

2.2.4/ Transfer

The PCV authority gained in part by a fitness qualification which is attached to the company and its owners. The fitness on which the company is examined on entry cannot be transferred to any new company or owners.

If a business is sold or transferred by share transfers the new enterprise must undergo the standard entry test in order to gain authority to begin operation. The effect of this is that transfers of PCV authority would not be possible. In no way, however, would this prevent the sale or transfer of businesses. It just requires that the new owners qualify themselves by the same entry test which applies to everyone else.

In the case of transfer by share purchases, the Board will need to establish at what point the transfer is deemed to take place. We think that transfer of 50% of ownership since the date of entry might be considered the trigger for requiring new authority.

2.3/ Rates

The matter of rate filing is inextricably linked with the issue of collective rate making. The Review Committee has addressed these subjects. They are contentious matters, with opinions that differ in fundamental respects on either side. For many reasons, it will not be an easy area in which to make changes.

On the other hand, there is agreement that the current system of rate filing is unsatisfactory, and in need of reform. In addition, very current issues raised by the Federal Competition Bill and the Combines cases now before the courts increase the importance and urgency of these issues.

During the next year a government industry committee should be commissioned to address both collective rate making and rate filing questions. The Committee should be asked to consider the consequences of the Federal Competition Bill, the Combines cases, and the impact of new information technology on the role of tariff bureaux. They must also consider the issues of enforcement of rate requirements.

This Rates Committee would be one of the group of implementation planning committees, and is included in the recommendations of Section 3.1.2.

We recommend that the present system of rate filing continue in place, pending the comprehensive report by the Rates Committee.

2.4/ Performance

We have repeated frequently in our recommendations that performance should become the major focus of regulation. For regulatory purposes this refers to performance with respect to standards set by statutes. The market will be the main policing agent of service performance. An indirect connection will sometimes develop between financial performance and regulation, where violations against maintenance and hours of work legislation increase as a result of financial pressures on a carrier.

The existing mechanisms of performance regulation should continue to be used. The CVOR mechanism (Section 4.1) is conceived as an additional means of performance regulation, to be applied on top of the existing mechanisms. Its purpose would be to strengthen and reinforce their effect. It would make an operator liable not only for isolated or separate infractions, but also for the cumulative performance of his whole operation: for his record of compliance in general. The performance obligations which would be tied together and strengthened by this means are those contained in all of the statutes on highway transportation of goods including the PCV Act.

This same intent is apparent, and can be achieved, under current legislation. But the means must be further developed and more actively exercised.

2.4.1/ Dormancy and Exit

While there would be no penalty imposed for failure to serve all parts of a PCV licence, there should be a process to keep the licence relevant to the service being offered. This is parallel to the obligation to supply government and the public with accurate and current information.

The Board should be empowered to require any carrier to redefine its service and licence, if it finds from data filed or from other sources that in fact the carrier has abandoned part of its licensed authority. The standard by which to judge dormancy or abandonment should be flexible enough, however, to allow the carrier reasonable latitude to vary his business according to demands.

A PCV authority should be considered totally abandoned and cancelled when no one will pay for renewal of the licence or of the insurance.

2.4.2/ Information

Performance data is of paramount importance to the effectiveness of many of our recommendations. All PCV holders should be obligated to provide the information listed in Sections 2.1.4 and 2.2.1, and should be subject to penalty for late filing, or for providing false information. The penalties appropriate should be developed by the Enforcement Committee. (Section 3.1.5).

2.4.3/ Review

Licences should be renewed at five year intervals. On this occasion the fitness and operating record of the carrier should be reviewed.

2.5/ Board Powers and Process

The use of regulatory instruments (licences and entry tests) in pursuing the objectives and principles outlined in Section 1, will require the exercise of good, consistent judgment and discretion. That judgment should be the duty of an expert, independent agency: the Ontario Highway Transport Board.

Our recommendations are directed towards fairness, objectivity and consistency in trucking regulations. It is essential that the Board have the independence, expertise, structure and credibility to pursue these goals effectively. We believe an agency dedicated to transportation is necessary to sustain the confidence of those in the industry.

For the same reasons, we recommend that the scope of Board duties be expanded in the future. Constituted as a Transport Tribunal, an expert agency could handle an increasing burden of complex industry disputes, licence reviews, and transport law adjudications. The commerce of truck transportation in Ontario alone has grown to more than three billion dollars annually. It is governed by specific statutes and common law of a technical nature. It warrants a specialized forum for the sake of efficiency, consistency and fairness. The evolution of such a Tribunal might be pursued over several years.

In this section, we outline the Board's powers and process we think appropriate in conjunction with entry regulation contained in the PCV Act. The powers and procedures described in Sections 2.5.2, and 2.5.3 are illustrated graphically in Section 2.5.4.

2.5.1/ Board Purpose

The purpose of the Transport Board is to apply the PCV Act appropriately, in such a way as to promote the objectives of regulation. Its efforts must be

directed towards safeguarding the highway transport industry for Ontario shippers against collapse. In the event of economic breakdowns in the industry, or severe market disruptions, the Board would have the powers and instruments to combat/moderate the decline.

It must use its powers to preserve fair competition, to prevent predation, monopoly, domination or fragmentation. This does not mean assuming the role of a "Marketing Board", or any responsibility to attain optimal balance of supply and demand, or even to rationalize capacity. These are instead the proper functions of competition.

To improve fairness in this process, the Board may use its information and knowledge to facilitate the process of renewal, and use its powers to moderate the pace of change in the market to allow participants time to adjust and respond. Along the same line, the Board should play a major role in ensuring that new entrants are fit; that is that they know the rules, and have some ability to understand and cope with the conditions of the market. The influence of the Board should be to inject an element of discipline in the entry process.

The Board also has a role in accommodating local participation, and in giving carriers and shippers an opportunity to express the concerns and issues which they feel must be weighed in judgments about the condition of the industry. The Board must not be shielded from these concerns, but hear them first hand.

2.5.2/ Board Powers

In entry proceedings, the Board will have the power to assist applicants, examine facts presented, enquire after further facts, judge the qualities of the applicant and the stability of the market, and decide the disposition of the application. All formal findings of the Board will be made in writing with reasons.

Assist

Board staff officers may advise and assist applicants on the correctness and completeness of their application for PCV authority, before formal proceedings commence.

This would be of particular value for example, in composing appropriate technical specification of the authority needed for the business plan proposed.

Once formal proceedings have begun there should be no bargaining or negotiating regarding the terms of the application. The Board must decide on the application as submitted. The intent of this is to prevent "fishing expeditions" by applicants seeking to have the Board determine the appropriate authority for the applicant.

Examine

When the applicant presents his application to a Board examining member for fitness approval, the CVOR, safety record and Certificate of Competence would be examined to determine whether they meet the appropriate standard.

Judgment on Fitness

In considering the business plan the Board examiner would be required to rely on experience and judgment to assess the reasonableness of the plan. A totally unfeasible plan, one which bears no relation to reality, or a plan which clearly will not be able to produce service for which authority is requested, should be rejected—with reasons.

Comment Procedure

More realistic proposals are likely to result from this practice. And the examiner will more commonly be faced with proposals which may be risky, but not unfeasible. The discretion the Board should be able to exercise in such cases is to produce a comment or critique of the plan, which the applicant may be required to show to his financial backers. By this means the Board may assure that applicants are encouraged to carefully assess the risks of their venture.

The applicant and his backers may then decide to revise the plan and reapply. Or they may feel the risks are warranted, or are over-rated by the examiner, and they really have a better than average service to offer. They could signal their wish to proceed with the existing plan by acknowledging the Board comment with signatures.

If the application is judged fit in other respects, the Board must then pass the application.

Notice

The award of authority should be announced in the Ontario Gazette, to take effect after 30 days, subject to any protests received in that period.

Cooling-off Delay

A longer period up to a limit of 3 months might be prescribed however, if the Board feels that the applicant has embarked on an impulsive or a rash course and where a "cooling-off delay" might serve some purpose. We would expect most applications will come from knowledgeable and reasonable applicants, and will pass the fitness requirements quite readily. By employing Board judgment and experience however, we hope that destructive competition resulting from ill-conceived plans might be reduced.

The power to impose a "cooling-off delay" should be eliminated if the review at the end of five years finds it has been ineffective.

Judgment on Protests

Once the award has been Gazetted, Board judgment will be required once again in qualifying any protests received by the deadline date. The basis of qualifying a protest on fitness or market grounds is outlined in Section 2.2.2.

Enquiry

In judging the strength of the case presented in a market protest, the Board will have the advantage of the industry statistics files updated every 6 months (as will the protestants). Board members may enquire beyond the facts presented in the protest in establishing whether a case for market failure might be made, and whether a hearing should be granted.

Likewise, where an applicant's fitness has been challenged, the Board must have the power to initiate enquiries and investigations of its own, to obtain the pertinent facts, in addition to hearing the case of the applicant and respondents.

The Board may use these same powers of enquiry once a market hearing has been granted.

Award
Deny
Amend

At the end of a market test hearing the Board must decide whether to award or deny the requested authority. If the application was found to offend the public interest as set out by Orders-in-Council before the hearing, in some limited or partial respect, the Board might then make the award minus the offending part. If the Board felt that the applicant might destabilize the market, but would cause no permanent harm, it might make a probationary or staged award, limiting the authorized capacity for example for some limited period of time. This would give participants time to adjust, as well as giving the Board a better opportunity to assess the impact of the new service.

Issuing Authority

On award of authority, the Board should issue the operating licence, not the Minister of Transportation and Communications.

Review

As noted above, we think the Board has a role to play in regulation beyond the entry test. Serious consideration should be given to develop powers beyond those listed above. In particular it would make sense for the Board to be involved in disciplinary proceedings with carriers and shippers. The power to review licences, particularly for fitness and dormancy purposes, should be developed immediately. We recommend that the Board be empowered to conduct reviews and to revise licences according to its findings, at its own discretion, and at least once every 5 years for each carrier.

2.5.3/ Appeals and Direction

Fitness examination should not be a public proceeding, but all other formal proceedings of the Board should be open. And all Board decisions must be rendered in writing with reasons. Every decision should be appealable to the Courts on points of law and to a special review panel of the Board on points of fact or substance.

There should be no appeals to Cabinet on individual Board decisions, except where the Government has intervened in the case prior to the hearing. Whenever the Board allows a protest to proceed to a hearing, the Government would be notified. If it considered the issue to be important enough, the Government would have the power to issue a "stop order", so that it could develop general guidelines or direction on the matter. It would have the further power to require the Board to conduct a preliminary enquiry or hearing on the general policy matter. The guideline would be published by way of an "Order-in-Council". The Board could then proceed with the hearing on the application.

Decisions of the Board could be appealed for reconsideration/review on the grounds that the government guidelines were ignored or interpreted incorrectly. Such appeals could be with the review panel of the Transport Board or with Cabinet.

2.5.4/ Board Structure and Process

The Board should be composed of three levels: staff members to assist applicants; examining members to administer fitness examinations; and hearing members to conduct hearings and appeals.

Figure 1

STRUCTURE OF THE BOARD

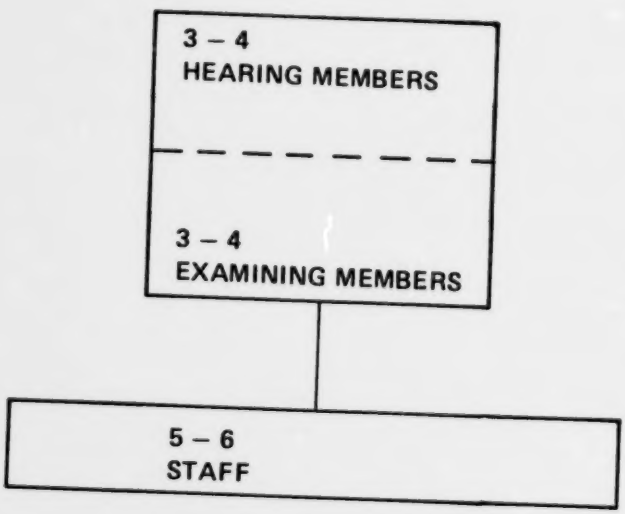
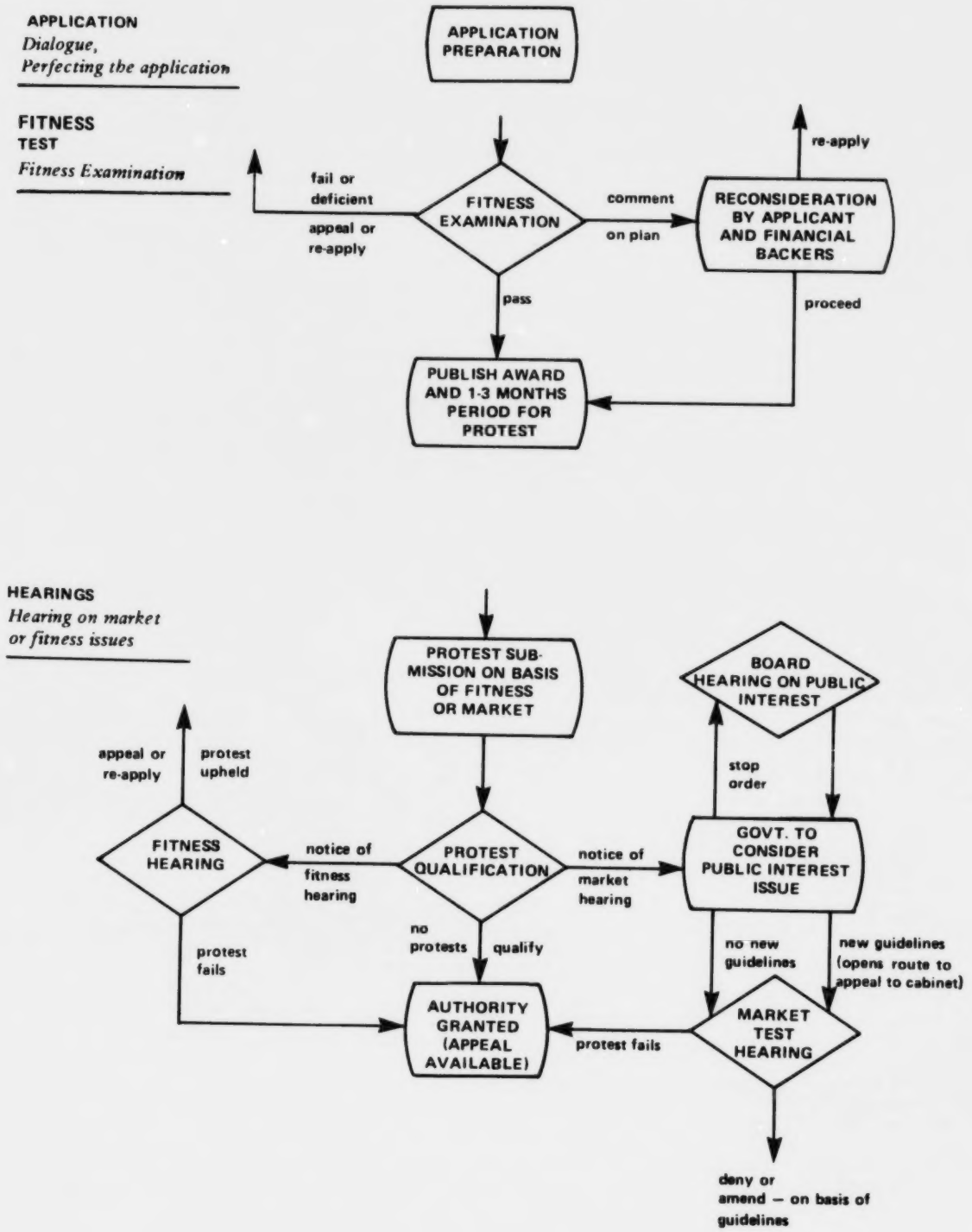


Figure 2

STAGE

BOARD PROCESS

Entry would be via a fitness test with recourse to a market test in certain circumstances and recourse to appeal at each stage.



2.6/ Enforcement

One of the key principles of our reform recommendations is that the economic regulatory system must be enforceable. Unenforceable legislation can only be counter-productive and unfair.

We have searched for a new and more acceptable basis for regulation. We have invested in this effort in the belief that consensus, understanding and consent to the basic purpose of the legislation will greatly improve its enforceability. We believe that the reforms we are recommending will yield greater understanding and ease of compliance, and that will maximize the likelihood of willing compliance. They would also make strict enforcement more defensible and effective than under the current Act.

We have also recommended simplified specification of operating authorities which would be more easily understood, and therefore, more easily enforced.

We recommend a careful and deliberate phased implementation, also intended to produce a clearer and understandable transition.

Our assumption is that the Government is prepared to make the following commitments: (1) the law must be enforceable; (2) the law must be enforced; (3) compliance must be improved.

Government must commit sufficient effort and resources towards achieving compliance, including the necessary information programs, compliance counselling, as well as policing.

Enforcement is the link that will determine whether the whole framework for regulation will work or not. It is essential that enforcement be used as a system, and be coordinated throughout. It must be consistent and directed equally against licensed and unlicensed carriers and shippers. It should be straightforward, understandable and capable of being carried out economically.

2.6.1/ Vehicle Operating Privileges

Strict enforcement does not necessarily mean harsher penalties, though we do recommend a change in the penalty system. We think harsh penalties for non-compliance in economic regulation are likely to be rejected in practice by the Courts, if not in principle by the Legislative Assembly.

The current detection rate and penalties turn fines into little more than licence fees to operate illegally. A cost effective improvement to enforcement efforts would be to get greater *cumulative* effect against an illegal operator from the detection and penalty systems. The CVOR is designed to do that.

CVOR

The kingpin of the enforcement system we recommend is the Commercial Vehicle Operator Registration (CVOR) already outlined in Section 2.1.2, and further outlined in Section 4.1. The basis for the CVOR is embodied in the Highway Traffic Act: operation of vehicles on public highways is a privilege that can be removed for certain abuses of the public interest. The CVOR should be built on the concept that carriers may enjoy that privilege only so long as they operate their business in accordance with the laws applicable. The privilege would be withdrawn if the carrier does not operate in accordance with the law. This means that every operator of commercial motor vehicles (as distinct from the vehicle owners or drivers) would have something at risk in choosing not to operate in accordance with the law. The essence of the system is a graduated removal of the CVOR privilege.

Concepts and details of CVOR administration must be worked out in further detail. The prescription of specific penalties and the process for imposing sanctions are difficult to recommend before some of the administrative constraints are better defined. These matters should be assigned to an

Enforcement Committee for resolution during the implementation planning process. That committee should also address the question of shipper responsibilities in PCV violations and how these should be legislated and enforced. (Section 3.1.5).

Detention

The power to detain vehicles would be an effective tool in the hands of the Highway Inspector. Every enforcement officer should have the discretionary power to detain a vehicle if the driver is unable to produce the documentation required by on-highway enforcement (Section 2.6.2). The vehicle should be released only when the documentation has been submitted.

2.6.2/ Information and Detection

The greatest problem in enforcement is detection of violators. A number of reforms are needed to improve information and detection systems and the feasibility of surveillance for effective enforcement.

On-Highway

Enforcement begins with an effective on-highway surveillance system which can stop obvious violators immediately, or collect sufficient information so that patterns of unusual or suspicious behaviour can be accumulated. The basic building block for on-highway enforcement is proper vehicle identification supported by sufficient information for authorities to determine who operates the vehicle, who employs the driver, and on whose behalf the goods are being moved.

Every commercial motor vehicle driver should be able to produce the following documents whenever required by an MTC enforcement official or police authority:

- a CVOR
- vehicle registration for the power unit
- a lease or rental agreement for the power unit if applicable
- the PCV authority if applicable
- a driver's licence
- bill of lading or load manifest
  depending upon whether the vehicle is for-hire or private
- appropriate vehicle public liability and property damage insurance certificate
- a power interchange agreement if needed.

Operators using leased equipment, whether on a long term or short term basis, would be required to carry identification of their legal possession of the vehicle, which in most cases would be a copy of the appropriate lease.

For interprovincial or international enforcement, the most effective location for on-highway enforcement is at the border, so there is no possibility of an inbound or outbound vehicle escaping detection.

Information

With the CVOR, it should be possible to better correlate infractions of the law, and apply the appropriate sanctions. It is recommended that a computerized data base be developed to keep efficient track of this information, and to track trends so that enforcement strategies can be tailored.

Off-Highway

The bulk of the enforcement effort against illegal trucking must be focused on off-highway enforcement. Off-highway enforcement should consist of joint auditing teams from all or some of the following departments: the Ministry of Transportation and Communications, the Worker's Compensation Board, the Employment Standards Branch, and the Ontario Ministry of Revenue, Sales, Income and Fuels Tax Branches.

Auditing teams should be authorized to inspect the operating records of any CVOR holder, whether for-hire or private.

Relying on the on-highway reporting system, random audits, and complaints, the Ministry's off-highway campaign should be able to more effectively untangle the false paper blizzard created by illegal truckers. The advantage of the joint auditing system is that the resources of the Ministry are employed cumulatively with the resources of other Ministries. The Government stands a good chance of recovering fees and taxes that are now being evaded.

2.6.3/ Prosecution

The Enforcement Committee and the Implementation Steering Committee should be asked to examine in principle whether citizens of the province should be permitted to lay information charges against any carrier or shipper if that person has proof of a violation of the PCV Act. Currently section 36 of the Public Commercial Vehicles Act restricts prosecutions to those approved by the Ontario Provincial Police or an officer of the Ministry.

2.6.4/ Trial

A greater role for the Board should be examined in principle in the area of enforcement. The Enforcement Committee should look at expanding the role of the Board in 2 or 3 stages; (a) under certain circumstances during the transition to new legislation, allowing Ministry staff to prosecute before the Board rather than the courts; (b) placing all PCV Act violations by licensed carriers before the Board; (c) going to a larger judicial role.

Transportation law in general, and the ability to decide charges related to operating contrary to the PCV Act, often requires specific knowledge. The Transport Board would be the most appropriate place to find that expertise.

The OHTB should be able to levy fines and hear charges. It would be able to interpret the trucking legislation more readily than the courts and the Board would be able to process charges more quickly than the overloaded court system now does. Justice would be seen to be more fair if delays could be reduced. The deterrent effect of penalties would also be increased if delays could be reduced.

It may not be constitutionally possible for the Board to assume wider judicial powers. If the Enforcement Committee should find this to be the case, then some other means should be found to improve the trial system. One possibility would be the introduction of circuit judges skilled in transport matters.

Changes should also be considered to provide the OHTB with authority to issue "cease and desist" orders, the power to review operating authorities, and the power to suspend or revoke operating authorities. This would duplicate the procedure in the normal courts that would result if section 36 of the PCV Act was removed. In that case, either the MTC or a private citizen could lay a charge for violations of the PCV Act before a justice of the peace and have it heard in court. On the other hand, if the charge was for actions contrary to an operating authority, either the Ministry or an individual carrier could refer the complaint to the OHTB for review and resolution. Difficult issues of licence interpretation would be put before the body most competent to deliberate upon them.

3 Implementation Transition and Review

To achieve all of the changes we recommend will require government and industry to make large transitions. The plan for transition from the current PCV system to the new regulatory system must recognize that carriers, government and shippers have invested under the existing system and must be given time to adjust.

A great deal of work remains in redesigning and implementation of the instruments of regulation. To successfully negotiate the transition, this process will need the cooperation and confidence of all participants as much as any part of the review process to date. We recommend that the care, deliberation and consultation which has characterized the review should also characterize the design and phasing of reforms.

Implementation should be spread over two years, with an appropriate organization in place to maintain control of the regulatory system while change is taking place, and to manage the change process itself.

The whole system should be closely monitored in order to guide this control mechanism, and to assess the results of reform. Timing problems and unintended implications should be investigated and fed back into the implementation process, so that they can be treated, and stresses which develop in the system can be relieved.

A "Transport Advisory Group" should be charged with monitoring the industry after the implementation period and providing a detailed status report in 1990 on the reforms and the process of reconciling the regulatory system with the needs and trends of the industry.

Section 3 deals with the organization and schedule which we recommend to achieve successful implementation, transition and review.

3.1 / Organization

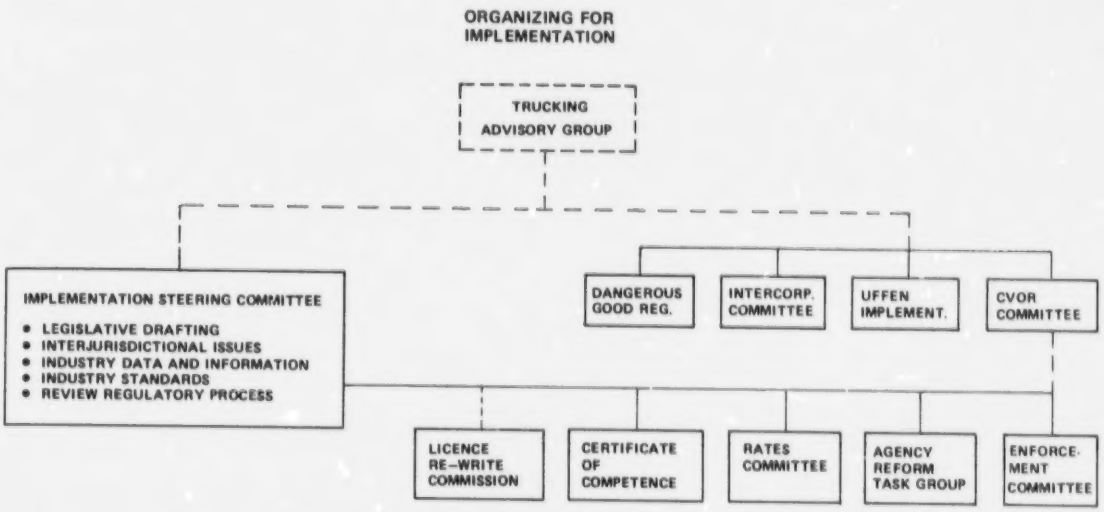
The government industry consultation process has proved to be dynamic and positive. We recommend the same process be used for implementation, transition and review. A Committee modeled on the PCV Review Committee, but smaller, should be created and given the role to advise the Minister on the steering of implementation of the principles and recommendations contained in this report.

It would be undesirable to create an undue burden of committees, but it is essential to maintain a maximum degree of consultation. The staff work of design, implementation and monitoring in the major tasks should be handled by separate working sub-committees. The work of the Implementation Steering Committee itself would consist of reviewing the reports of working groups and task forces.

It is also desirable to maintain a close relationship with other regulatory change and evolution which may be taking place as a result of the Uffen Commission, the Committee on Intercorporate Trucking and the development of Dangerous Goods regulation.

Terms of reference proposed for the immediate purposes of implementing PCV reforms in the next 2 years, are outlined in the remainder of this section. Possible linkages among these groups and with other trucking policy initiatives is illustrated in Figure 3.

Figure 3



3.1.1/ Implementation Steering Committee

The basic terms of reference for this committee should include the following:

- Appointed by and responsible to the Minister of Transportation and Communications
- To meet approximately once per month during the first two years of systems development and implementation and to advise and report on the implementation of the principles and objectives of reform
- To advise on legislative drafting
- To advise on and develop standards for interjurisdictional issues and Motor Vehicle Transport Act implications, including matters of:
  - —local participation
  - —compatibility between Ontario and other jurisdictions
  - —duplication and overlaps
  - —reciprocity
- To advise on and develop standards and procedures for licence rewrites and transitions, including:
  - —defining terms of reference for the Licence Rewrite Commission
  - —preparing guidelines for licence rewrite process
  - —finalizing licence specification standards
- To advise on and develop standards for fitness and market stability criteria, including:
  - —fair competition standards in concentration, dominance, predation
  - —competency standards
  - —financial fitness standards
  - —insurance requirements
  - —contracts and claims standards

- To advise on and develop standards and procedures for industry data collection and dissemination, including:
  - —developing relevant information and a data base
  - —procedures for data collection
  - —standards for auditing and sanctions for failure to supply data
  - —standards of confidentiality
  - —market definitions
  - —advertising standards
  - —dormancy standards
- To maintain close liaison with the committee which will develop the CVOR mechanism
- To investigate and advise on Owner Operator related issues:
  - —truth-in-leasing standards for Owner Operator agreements
  - —dependent contractor status
  - —competency standards for dependent contractors
  - —transfers of lease and CVOR
- To appoint, chair and steer implementation task groups on:
  - —Rate Filing and Collective Rate Making
  - —Agency Reforms
  - —Certificate of Competence
  - —Enforcement
- To ensure that industry participants are informed and educated on the changes and new procedures
- To provide a channel for responding to industry dissatisfactions with regulation
- To monitor and measure regulatory operations and the impacts and implications of reforms on the different segments of the industry, and to prepare cost benefit analysis of regulatory processes.

It will take time to develop and implement the reforms recommended. The Implementation Steering Committee should provide continuity with the Review Committee through this future transition period. Some of its members should be appointed from among PCV Review Committee members.

Its role should be advisory, not legislative. But extraordinary powers might be legislated for the Minister during the first two years to facilitate the implementation of advice of the Committee.

The main channel for resolving interjurisdictional issues would also be through the Minister and through the CCMTA. The Steering Committee should advise the Minister on the nature of the problems as they become apparent and on possible solutions.

At the end of its implementation mandate (approximately 2 years), the Implementation Steering Committee should submit to the Minister a complete appreciation of the reform process, and the results, with recommendations for future direction and administration of regulation.

The Committee should also advise on the formation of an ongoing "Trucking Advisory Group" to be created after the implementation period. This mechanism would be a catalyst for productivity improvements, identify barriers to growth, institutional or regulatory failures and reforms. It should also be the mechanism for preparing the five year review of regulatory reform. An assessment of models of similar advisory mechanisms in other countries such as the U.S., Britain and the Netherlands may prove instructive in this area.

3.1.2/ Rates Committee

The basic terms of reference for this Committee should be as follows:

- Maximum duration of one year
- To examine all aspects of public policy and legislation on collective rate making, including the implications of the federal Competition Bill and Combines cases

- To take into account the filing and publishing practices and issues raised by new information technologies
- To make recommendations on public access to rate information
- To make interim recommendations on the Canadian Industrial Traffic League (CITL) proposals for tariff bureaux reforms.

The Review Committee has not resolved the complex issues to be considered. Because of federal activity in this area, the issues are urgent. This particular committee should be created as soon as possible.

It should make its interim and final recommendations to the Minister through the Implementation Steering Committee.

3.1.3/ Agency Reform Task Group

The basic terms of reference for this committee should be as follows:

- To be chaired by the OHTB Chairman
- To complete its task within a period of 12 months, starting in September 1983
- To develop an organizational structure for the Board
- To develop procedures for entry applications and protests
- To recommend procedures for agency accountability, policy direction and appeals
- To recommend mechanisms and fees to achieve self-financing
- To examine the investigative and disciplinary powers proposed for the Board by the Review Committee, and procedures which would adequately preserve the independence and credibility of the Board in its primary role of adjudication.

3.1.4/ Certificate of Competence Task Group

This task group should take the work of the Review Committee on Certificate of Competence reported in Section 4.2, and complete the design and implementation task.

Many institutional questions remain to be addressed, such as: can the community colleges administer the courses; where should examining powers be located; how should certificating agencies and certificate holders be audited and to what standards; procedures for decertification; and how should the correspondence version of the course be administered?

Government should fund the syllabus development for the day school, night school, and correspondence versions of the course. Once installed, it is intended that the program be self-financing. The necessary fees and procedures must be developed.

This task group should also look for other transitional programs that might be recommended to help the trucking industry through the transition which is occurring towards professionalization of management.

3.1.5/ Enforcement Committee

This committee should investigate and advise on the interim powers needed to maintain stability and control through the reform implementation period, and also on the appropriate enforcement powers and procedures for the longer term. The Committee should work with Ministry personnel on the development of the compliance philosophy and appropriate administrative functions and procedures.

This Committee should advise on the development of CVOR, if the government should decide to further investigate the merits of this concept proposed by the Uffen Commission and the Review Committee. In particular this would include advice on sanctions appropriate for accumulations of PCV Act infractions, and the appropriate coordination of roles for the Registrar of Motor Vehicles and the Board in conducting CVOR reviews and applying sanctions.

It should examine at least the following additional issues:

- Increased use of Section 30 of the Highway Traffic Act for removing registration plates
- The powers required by Highway Inspectors
- The roles of the Transport Board and the Registrar of Motor Vehicles in Enforcement (review and sanctions)
- Shipper offences
- The removal of Section 36 of the PCV Act, limiting laying of charges to Ministry officers and the O.P.P.
- Powers of detention
- Discretion which might be exercised in on- and off-highway enforcement, in order to encourage/facilitate compliance (eg. in cases of first time offences and ignorance of the law)
- To investigate possible expansion of the judicial mandate of the Transport Board, and the implications for its administrative functions, proposed enforcement role and its relationship with the Minister of Transportation and Communications
- Enforcement during the transition period and startup of CVOR; how to maintain equity in the transition period.

3.1.6/ Licence Rewrite

Redefining operating authorities in the simplified format will be a major task, with major implications. It will provide early and concrete evidence of the reform process to all participants. This task must be coordinated with other changes being developed and implemented. The time required for adjustment during the redefinition of authorities makes this the pace setting or critical task (Section 3.2).

The first requirement would be to finalize the system for specification of operating authorities. This should be completed by the Implementation Steering Committee as soon as possible. The largest part of this task is to resolve the dilemma on commodity or industry coding systems.

The Minister should appoint a 3 person independent Commission to conduct the actual rewriting of all existing licences. The Commission would also issue licences to existing carriers who are not now required to hold them, but would under the new Act.

The funding for the Commission and a small administrative staff should be provided through the Ministry. The Commission should report to the Minister of Transportation and Communications. It should complete its task in a six month period.

The Commission should not be obliged to hold formal public hearings. Its decisions should be published, and appealable only to the Board.

The policies and procedures to be used by the Commission should be published before it begins the rewrite process. These policies and procedures should be reviewed at a public hearing, after which they should be final.

The transition to new licence specification should be scheduled over 2 years (Section 3.2), and consist of 4 phases of 6 months each: 1) rewrite, 2) revision, 3) rationalization, 4) operation. The new entry tests should be initiated by the Board at the end of the two years, after existing carriers have acquired six months operating experience with the rewritten licences.

The Implementation Steering Committee should develop the terms of the rewrite process to include the following:

- Existing authorities would be grandfathered into the new simplified geographic and service specifications so that they remained as close as possible to existing authority, without any loss of authority.
- In the transition there should be no change in the place of business rules affecting class "H" carriers.
- Only legitimate operations existing at the beginning of the process will be issued simplified licences during a two year transition period.
- All applications for new or extended authority received during the two year transition period should be required to pass the existing test of public necessity and convenience, and any authority granted would be conditional upon passing the new entry test when it becomes operational.
- Existing named shipper authority should be retained so long as the carrier is actively serving the named shipper; but named shippers should be dropped from licences after 5 years, or sooner if desired by the carrier. No new named shipper authorities should be issued during or after the transition period.
- "R" licences would be rewritten in the same form as they exist now. Anyone wishing to get a simplified or commodity "R" licence would be able to do so by going through the new entry process when available. New dump truck licences would be issued with no fleet restrictions, except for probationary purposes.
- There should be no grandfathering of illegal carriers. They must enter through the normal entry process.
- Rewritten authorities would all become effective on the same day, eighteen months after the Rewrite Commission begins its task.
- The carrier may appeal to the Board for reinterpretation of his old licence and to "Revise" the rewritten licence, if he believes the Commission has denied him any part of the authority he now holds.
- The carrier may also apply to the Board to add or delete authority in order to "Rationalize" his operations under the rewritten licence. This might include obtaining authority to intermediate points and backhaul rights. A guideline should be used limiting expansion of authority in this rationalization process within the existing scale and nature of the operation.
- Any carrier affected by an application for Revision or Rationalization of a rewritten operating authority may intervene in the proceeding before the Board.
- After two years, all new entry procedures should be in place and open to any carrier to apply for new or expanded authority.
- All conditional licences granted through the two year transitional period would expire within one year of the date when the new entry process is available.

This schedule is illustrated graphically in Section 3.2.

3.1.7/ Public Information

The Implementation Steering Committee should be responsible to keep carriers, shippers and government administrators advised and informed of its work and planned reforms and progress. To this end public symposiums and seminars might be scheduled from time to time.

The industry data base should be established as soon as possible (Section 2.1.4). All existing licence holders should be required to submit data each six months, starting January 1, 1984. The Implementation Steering Committee must work out the standards and procedures for collection of this information.

As soon as possible after the data is collected, it should be made available to the public. Fees, standards and procedures for releasing information must also be established before the end of 1983 to make this possible.

3.2/ Implementation Schedule

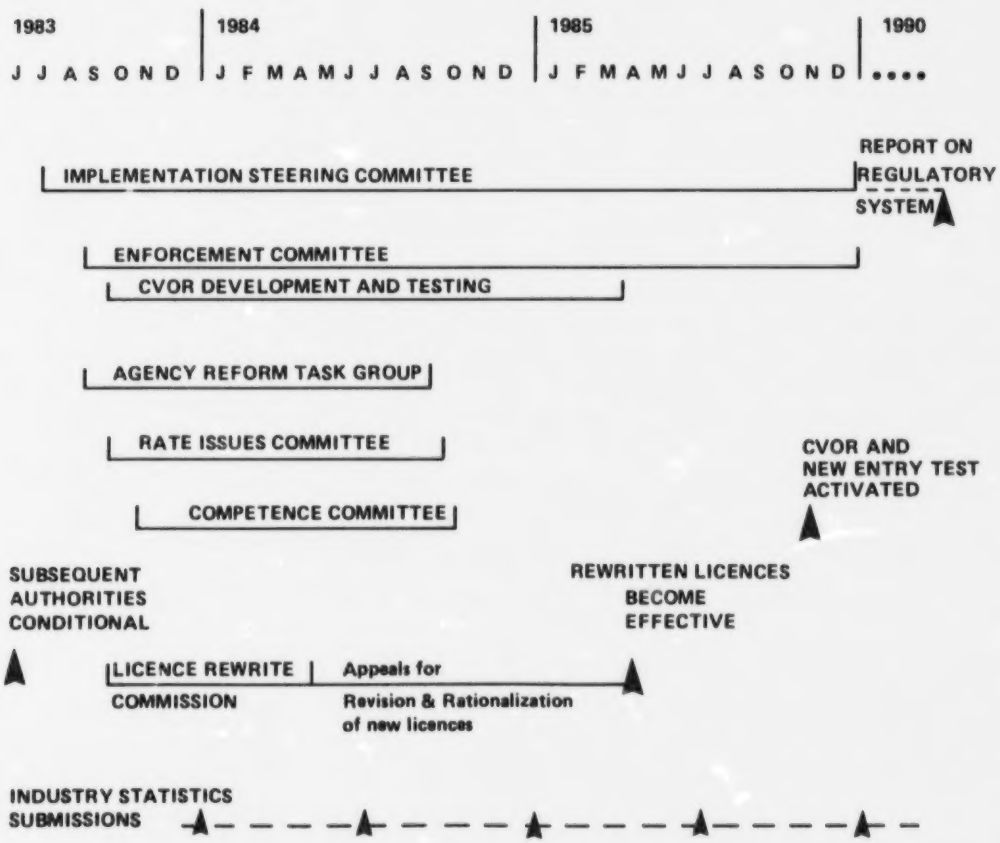
The major phases of reform include:

1. developing consensus on objectives and mechanisms.
2. regulatory systems and procedures development.
3. monitoring, assessment and renewal.

We recommend that the second major phase should begin as soon as possible, and continue for about two years. The proposed schedule for systems development and also the transition to new licence specifications is indicated below.

Figure 4

PROPOSED SCHEDULE
FOR IMPLEMENTATION AND TRANSITION


1983
1984
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J J A S O N D
J F M A M J J A S O N D
J F M A M J J A S O N D
....
IMPLEMENTATION STEERING COMMITTEE
REPORT ON REGULATORY SYSTEM
ENFORCEMENT COMMITTEE
CVOR DEVELOPMENT AND TESTING
AGENCY REFORM TASK GROUP
RATE ISSUES COMMITTEE
CVOR AND NEW ENTRY TEST ACTIVATED
COMPETENCE COMMITTEE
SUBSEQUENT AUTHORITIES CONDITIONAL
REWRITTEN LICENCES BECOME EFFECTIVE
LICENCE REWRITE COMMISSION
Appeals for Revision & Rationalization of new licences
INDUSTRY STATISTICS SUBMISSIONS

4 Mechanisms Discussed

In our review, we have focused on the framework for regulation, including the practical matters of feasibility and enforceability of the means to achieve the objectives. In some instances practical considerations came to dominate our view of what should be undertaken. And frequently consensus has been conditional on what means could be devised to achieve the ends. Our recommendation for a review after five years is based upon our sensitivity to the need to incorporate practical experience into the adoption of objectives and principles.

Two mechanisms we propose have occupied the attention of the Committee most with respect to feasibility: CVOR and the Certificate of Competence. Other mechanisms proposed are closer to current experience. It was necessary to discuss these two mechanisms at greater length before the Committee was prepared to recommend them for further consideration.

Sub-committees were created to explore each of these two mechanisms. The detail developed by the sub-committees, and discussed by the Review Committee is reported in this section.

4.1 / Commercial Vehicle Operator Registration (CVOR)

Problem: Industry considers that universal and effective enforcement of PCV legislation is necessary for the system to be fair. Unfair situations are created where different levels of compliance exist in different segments of the trucking industry. Current mechanisms have not produced universal and effective enforcement.

Government considers the integrity and credibility of legislation to be important. This can be addressed partly by designing legislation which is enforceable, and must also be addressed by setting up adequate enforcement mechanisms.

Approach: We think that greater investigative powers, and a method of accumulating evidence of irresponsible behaviour towards the law would be useful tools in increasing the effectiveness of enforcement.

As a registration procedure, CVOR would help assure that all parties (shippers, carriers, government) had identified and acknowledged exactly who would be accountable for the uses of any commercial vehicle. Putting the recognition of responsibility "up-front" would improve compliance rates by making participants more aware of the law. It would also simplify investigations and prosecutions.

As a deterrent, the sanctions imposed under CVOR could be graduated with the level of violations. This type of system would permit the integration of warnings and compliance counselling, which might be more effective in achieving compliance improvements than a system with only one level of sanction.

Currently, there is no way of detecting where responsibility for control of a carrier has not been declared, or has been disguised. As an enforcement device, CVOR would help with on-highway detection of trucks contravening the PCV Act, by identifying (subject to audits and investigations) who had control or beneficial use of the vehicle. By correlating this to PCV authorities and the ownership of the goods aboard, possible PCV infractions could be detected.

On-highway detection of operators who have had their operating privileges suspended could also be facilitated.

Liability for each separate infraction of the law would remain as defined in the relevant statute. CVOR would create a cumulative record of the operator's performance. A new and separate liability would be legislated for this cumulative record. It would not be an extension of penalties already imposed for previous convictions on separate incidents, but a recognition that the enterprise has a responsibility which spans more than one incident and more than one statute.

CVOR could be used in this manner to strengthen the integrity of at least the following statutes: Highway Traffic Act (safety), Dangerous Goods Code, Environmental Protection Act, Labour Code, Public Commercial Vehicles Act.

It is important that the CVOR requirement be universal. It should apply to all commercial vehicles on Ontario highways, including those from other jurisdictions.

In most respects CVOR would do nothing new. It would only require acknowledgment of accountability for performance, and bring together in one place the complete picture of a carrier's performance.

Structure: The CVOR system would be developed under the Highway Traffic Act; but the purposes of the PCV legislation must be recognized in the development of the CVOR mechanism.

Each commercial vehicle would be registered to some identified carrier or operator. An operator would be an individual or corporation who owns, leases or acquires the use of a commercial vehicle for the purpose of transporting goods, whether or not the service is for compensation.

Any individual or corporation is free to register vehicles as a carrier or operator. But the privilege of vehicle registration could be limited or removed for cause.

The CVOR would not be a business "operating authority", but rather a system of vehicle registration aimed at identifying the person(s) or corporation who acknowledges accountability for certain legislated duties concerning the operation of the vehicle.

This mechanism makes someone responsible for on-highway operation besides the driver and vehicle owner. It assures the "carrier" or "operator" or "beneficial user" also has a stake in the responsible operation and use of the equipment.

A file would be created for each registrant, for-hire or private, who accumulates a record of convictions for infractions in Ontario regarding the vehicle, the driver, or the cargo. Each conviction would be assessed a point value, which would be accumulated in the CVOR file. The points would decay and disappear after a period of time.

A clearly defined schedule of sanctions and demerit point levels would have to be developed. As in the driver demerit system, these would have to be at levels judged practical and reasonable from the perspective of normal trucking operations, and normal enforcement operations.

A review of CVOR privileges would be triggered at certain demerit levels, or when seeking new operating authority.

The legislation would enable Ministry inspectors to seize and audit the operating records of any CVOR holder for investigation and enforcement purposes.

Concerns: Much more development and discussion is required on the CVOR concept to crystallize its possibilities and problems. Because of the size of the task, and the importance of the CVOR to performance regulation,

this work must be commissioned as soon as possible. Included among the issues to be resolved would be the following:

- a convenient method for registering out-of-province carriers
- detection systems and detention powers on CVOR infractions (eg. improper registration)
- a convenient method for transferring vehicles from one "carrier" to another for
  - —rentals
  - —leasing
  - —owner operators
- the schedule of demerit points and sanctions.

4.2/ Certificate of Competence

A Sub-committee of the Review Commmittee has considered the possibilities for a Certificate of Competence Program in some detail, drawing particularly on similar programs in England and Europe. This section is drawn from the report prepared by the sub-committee. The findings and proposals are all tentative, and subject to much more discussion and development during the implementation planning phase. In particular the institutional requirements and issues have yet to be explored, which will require the participation of the Ministry of Education and Community Colleges administration representatives.

Objective: To develop a process that will screen prospective entrants into the for-hire trucking industry for a given level of business and operating knowledge.

To develop a curriculum that will enable prospective entrants into the trucking industry to attain the necessary knowledge to operate their businesses in a competitively fair and profitable manner.

Governing Body: A non-profit organization should be created to oversee the development and implementation of a curriculum and to develop and administer the appropriate tests of competence. The Board of Directors should consist of representatives of the various stakeholders in a viable for-hire trucking industry, as well as from organizations charged with delivering the education program. These include OTA, CITL, MTC, MCU, Unions, Owner Operators, CMA, PMTC and Community Colleges.

Certificate of Competence: A Certificate of Competence will be granted to an individual demonstrating a given level of knowledge required to operate a trucking related business in an appropriate manner.

Requirement for Certification: All businesses who wish to hold a PCV authority for the movement of goods not owned by that organization must employ an individual who holds a Certificate of Competence. In a corporation, this person must be an officer of the company; in a sole proprietorship the owner; or at least one partner in a partnership.

In addition to for-hire carriers, owner operators might require Certificates of Competence.

Private carriers who carry goods on their own account only will not be required to employ an individual with a Certificate of Competence. They might, however, find such individuals to be a valuable source of skills and talent.

Levels of Certification: There should be three levels of certification of competence. One or more of these must be held by at least one officer of a corporation, the owner in a sole proprietorship, or by at least one partner in a partnership.

Level A—All organizations defined above employing or using the service of 1-10 trucks.

Level B—All organizations defined above employing or using the service of more than ten trucks. Firms with more than one location must employ in a position of authority at least one individual with Level B qualifications at each location with more than 25 employees.

Level C—Any of the above organizations operating interjurisdictionally. This level would include all the level A or B qualifications.

Areas of Knowledge: Each applicant for a level A or B certificate must demonstrate a given level of proficiency in three areas. These are:

1. Financial Administration
2. Legal Environment
3. Operations and Safety

CONTENT LEVEL "A"

A. Financial Administration

1. Financial Administration
   Operating Statement

   Balance Sheet
   - asset
   - debt
   - equity

2. Costing
   Analysis of costs

3. Control & Feedback Records
   - fuel purchase
   - parts purchase
   - regular statements

4. Financing Alternatives
   Debt
   - lease
   - mortgage
   - guarantees
   - conditional sales contracts

   Sources
   - banks
   - finance companies

5. Cash Flow
   - major repairs
   - tax payments

6. Professionals
   - role of the auditor
   - role of the lawyer
   - how to choose a professional
   - role of trade association

B. Legal Environment

1. PCV Act
2. Highway Traffic Act
3. Contract Law
4. Dangerous Goods Act
5. Tax issues
   - income tax
   - fuel tax

C. Operations and Safety

1. Maintenance
   - preventive maintenance
   - record keeping
   - inspections

2. Occupational Safety
   - lifting
   - slips and falls
   - hearing

3. Driving Safety
   - effects of drugs and alcohol
   - hours of work

4. Insurance
   - PL & PD
   - cargo
   - liability

5. Equipment Spec'ing
   - types of equipment
   - new vs used

6. Fuel Conservation
   - original equipment
   - add-on devices
   - driving—easy going speed

7. Load Security

8. Dangerous Goods

9. Weights and Sizes

CONTENT LEVEL "B"

A. Financial Administration

1. Financial Statement Analysis
   - operating statement
   - operating ratio
   - margins
   - variable vs fixed cost
   - break-even analysis
   - depreciation

   Balance Sheet
   - ratio analysis
   - debt/equity

2. Costing/Pricing
   - analysis of costs
   - return on sales or investment
   - overhead analysis
   - methods of setting prices

3. Financial Planning and Budgeting
   - What is a budget?
   - accuracy
   - timing
   - types of budgets

4. Control & Feedback Systems
   - cost per mile, hour, unit
   - load records
   - trip sheets
   - fuel use reports
   - labour usage
   - parts control
   - managerial feedback reports
     - daily, weekly or monthly

5. Financing Alternatives

   Equity
   - family
   - investor

   Debt
   - lease
   - mortgage
   - guarantees
   - debentures
   - conditional sales contracts

   Sources
   - banks
   - near banks
   - finance companies
   - Government grants and loans

6. Cash Flow Analysis
   - projections of cash requirements
   - credit and collections

7. Professionals
   - role of the auditor
   - role of the lawyer
   - how to choose a professional
   - role of a trade association

B. Legal Environment

1. PCV Act

2. Highway Traffic Act
   - weights and sizes
   - inspections

3. Employment Standards
   - hours of work
   - overtime pay
   - public holidays
   - vacation pay
   - terminations

4. Occupational Health and Safety
   - refusal to work
   - hazardous substances
   - penalties

5. Workers' Compensation
   - form 7
   - appeal process
   - owner operators
   - accident
   - investigations

6. Corporations Act

7. Dangerous Goods

8. Municipal By-laws

9. Small Claims Court

10. Tax issues
    - income tax
    - sales tax
    - excise tax
    - fuel tax

11. Human Rights Code

12. Environment Act

C. Operations and Safety

1. Maintenance
   - preventive maintenance
   - record keeping
   - major repairs
   - inspections

2. Safety
   Driving
      checking records
      testing
      types of licences
   Occupational
      TSA
      lifting
      slips and falls
      hearing
3. Insurance
      PL & PD
      cargo
      liability
      fire
      other
4. Equipment Spec'ing
      types of equipment
      new vs used
5. Fuel Conservation
      original equipment
      add-on devices
      the driver—easy going speed
6. Load Security
7. Dangerous Goods
8. Weights and Sizes
9. Personnel
      selection
      motivation
      communications
      remuneration

CONTENT LEVEL "C"

1. Overview of different Provincial Regulations
2. CAVR and Licence Reciprocity
3. Interprovincial Tax Issues
      fuel
      sales tax
4. Canada Labour Code
5. Customs Requirements
6. U.S. laws and taxes—overview
      immigration
      taxes
      regulatory environment—ICC
      red book

Minimum Education Requirements:

Level "A" Grade 8—proficiency in speaking English or French, some reading and writing skills.

Level "B" Grade 8—proficiency in reading, writing and speaking English or French.

Level "C" Same as Level "B"

Methods of Instruction: There are two methods of instruction that will be considered: classroom lectures and correspondence.

Classroom Lectures:

This method could be offered through the Community College system.

Level "A"—This course would be taught in six 3-hour lectures. Examinations would be given after every two weeks and would cover a particular section; financial administration, legal environment and operations and safety.

Level "B"—This course would be taught in twelve to fourteen 3-hour lectures. Examinations would be given at the completion of each section; financial administration, legal environment and operations and safety.

Level "C"—This course would be a three to four week course. The examination would be given at the completion of the course.

Instructors:—Where possible instructors should be selected from the trucking industry. It may be possible for some instructors to teach all three sections or if necessary a different instructor could be recruited to teach each section.

Cost:—Development of the curriculum to be borne by government. The cost of administering the courses and testing will be borne completely by those taking them.

Correspondence:—Since many small business operators and owner operators will not be able to afford the time to take lectures, a correspondence course should be developed. This program would be administered by the governing body.

Correspondence students would be required to take an examination in each area. These examinations would be given at various locations throughout the year. In order to accommodate the time problems of these individuals they will be given either in the evening or on weekends. The examinations will be of the multiple choice type.

Exemptions: Some individuals may be granted exemptions for all or part of the program. In most cases these are individuals who have received certification in a related field.

Certification	Exemption Granted
C.A., R.I.A, C.G.A.	Financial Administration
CITT	Financial Administration, Legal Environment
CTM or CTE (OTA Educational Services)	All sections
Motor Carrier Administration (Sheridan College)	All sections
L.L.B.	Legal Environment
M.B.A.	Financial Administration
B.A. (Bus.)	Financial Administration
Diploma (Bus.)	Financial Administration
Certificate of Competence from other jurisdictions	All sections

Grandfather Rights

Level "A"

Operators of fleets of 1 to 10 trucks who have operated in this capacity for five years prior to the implementation date will receive a Level "A" certificate of competence.

Operators of fleets of 1 to 10 vehicles with less than five years experience may continue to operate but must obtain Level "A" certification or must employ an individual holding a Certificate of Competence within three years of the implementation date.

Individuals in positions of authority in operations using 10 or fewer vehicles who do not qualify for a grandfather certificate may write the exam for a Level "A" certificate without taking the necessary courses within two years of implementation date.

Level "B"

Individuals involved in businesses that arranged or participated in the movement of goods for at least 5 years, three of which in one of the following capacities, chairman, president, executive vice-president, general manager, terminal manager, owner, will receive a Level "B" Certificate of Competence.

Organizations employing or using the service of 10 or more trucks must employ individuals with a Certificate of Competence in positions of authority within one year of the implementation date.

Individuals in positions of authority in operations using 10 or fewer vehicles who do not qualify for a grandfather certificate may write the exam for a Level "B" certificate without taking the necessary courses within two years of implementation date.

Level "C"

Individuals who are eligible for a Level "A" or "B" Certificate of Competence and who have been involved in interjurisdictional trucking for 5 years are eligible for a Level "C" Certificate of Competence.

Loss of Certificate of Competence

Where warranted it should be possible to revoke a certificate for irresponsible performance. Where a business loses its CVOR privileges for any reason, the governing body should review the competence of the certificate holders within that business.

5
Background

The evolution of the trucking industry and of regulation governing it has been as complex as the industry itself and as volatile as the economic and social developments of the past seventy years—spanning two world wars, the opening up of rural Ontario, Economic Depression, a national rail strike, a national truck strike, several recessions and the energy shocks of the 1970's. The story has become veiled in the rhetoric surrounding the lively adversary debates that have attended the whole evolution.

In a lot of ways, the industry has been taken for granted, much as the horse and wagon from which it descended. It has not attracted the glamour and attention that the elite technologies of rail and air or marine transport modes have done historically. Scholars have not chronicled and analyzed the industry to the extent that they have for other modes. In all of the high profile royal commissions and studies from which public policies and legislation have emerged, only the 1938 Chevrier Commission came close to examining trucking specifically until the Ontario Select Committee on the Highway Transportation of Goods in 1976-77.

The 1976 Select Committee assembled and documented a wealth of original material on trucking issues. Our Review was not given a fact finding mission, or designed to engage public attention and debate on the issues. It was designed more as a "working session" to resolve by consensus the issues of principle in economic regulation of trucking which the Select Committee had said needed to be resolved. We have drawn on the Select Committee material in our Review. We have also drawn on the personal knowledge and experience of Review Committee members who are participants in the industry, and were appointed specifically for the background they would bring to the task.

Background on the terms of reference and activities of the Review Committee is detailed in Section 5.3.

The Review Committee has tried to focus its attention on the future more than the past. Our conclusions about the issues that lie ahead for the economic regulation of trucking are reported in Section 5.2.

To provide the reader with perspective on the history of events which have led up to this Review in Ontario, a brief history of the industry and public policy on trucking is recorded in Section 5.1. No attempt is made here to analyze the complex background of economics and politics of trucking; just to describe its progress.

5.1 / Ontario History

The development of truck transportation in Ontario has all taken place within living memory. Provincial public administration in Ontario goes back not much more than twice as far as that, and there are many connections and parallels in the development of both. This is no less than a continuation of the often noted linkage between advances in transportation and the development of economic and political structure in Canada.

The history of trucking is also entwined with the history of railways. The teams and drays and liveries which trucking replaced in a remarkably short period of about thirty years did not influence the course of trucking legislation nearly so much as the railways.

As for other transportation modes, Ontario developments in trucking, both technical and legislative, closely parallel developments in other jurisdictions, particularly the United States. In the brief overview of trucking history in this section, additional perspectives are supplied by referencing some history outside Ontario, as well as the progress of the railways, and the economic development of the province.

The history has only barely begun to be documented and much still exists only in oral form. We have drawn upon several significant very recent sources in assembling this description:

- "The Golden Years of Trucking" published by The Ontario Trucking Association in 1977.
- "The Development of Regulation in the Highway Trucking Industry in Ontario" by Norman Bonsor, published by The Ontario Economic Council in their report on Government Regulation, Issues and Alternatives; 1978.
- "History of the Public Commercial Vehicle Act and Related Laws and Regulations", prepared for the Review Committee by M. L. Rapoport in October 1981.
- "Public Policy Direction for the Highway Transportation of Goods", Final Report of the Select Committee on Highway Transportation of Goods, published in 1977.

Several staff papers prepared by Review Committee staff are also referenced.

5.1.1 / Technical and Economic History

In early times, water transport was the only means of moving goods in Canada. Farms along the St. Lawrence River had narrow frontage and considerable depth. This enabled early settlers to have comparatively easy access to boats. And of course fur traders and explorers moved almost exclusively by river and canoe.

As trade grew in Canada and as settlements moved inland it became necessary to look elsewhere for transport. Railroads were expensive for a young country; nevertheless, the history of rail construction in Canada is a central chapter in the development of the nation.

The rails dominated the transportation scene for many years. The financial fortunes of many an individual and company of individuals were made and broken in the speculative rush to the new mode. Municipalities were swept up in the stampede to get onto the economic map by enticing or funding rail development. Ontario, for reasons of economic development, constructed Timiskaming and Northern Ontario Railway (Ontario Northland).

The predecessor of the Ontario Municipal Board was created in 1902 ("Railway Committee of the Executive Council") in order to ensure that municipalities acted responsibly in taking on obligations with respect to railroads. Their efforts were not enough however to stave off massive oversupply in the industry and financial breakdowns. A half century ago, in order to save services and companies in many communities, the Federal Parliament decided to consolidate a number of bankrupt lines into the system now known as the Canadian National Railways.

History books are replete with illustrations of grants, subsidies and concessions made and declarations of public interest in the railways of Canada.

All along the railway rights-of-way towns and villages sprang up, and industries developed. But the railways had one great handicap in common with rivers and canals. They were limited to going where their lines led them. A few miles from the main rivers and the railway lines, Canada was still a vast unopened hinterland. It would take a horse and wagon the best part of a day to transport produce 20 miles from a farm to a railway. Similarly, it would take just as long to deliver goods from the railway station to a home along dusty, bumpy trails. When roads began to be built in Ontario and commercial vehicles were introduced, a revolution in land transportation began.

There was little to suggest that this would happen when trucks first came along. It was an age of experimentation, the 1890's. No one knew what power other than horses would be best for road transport. They were trying steam, electricity and the new-fangled internal combustion engine fueled by gasoline. The early trucks might achieve a top speed of 14 miles an hour, but if they had travelled at that speed on city streets they would certainly have been breaking the law, which then limited the speed to 10 miles an hour.

The big change that put internal combustion vehicles ahead of steamers and electrics occurred in 1908, though the latter two did not immediately disappear. In 1908 Henry Ford brought out his famous Model T passenger car which revolutionized motoring. Up to then motoring had been a rich man's hobby. The Model T was cheap and therefore available to large numbers of people. It was tough and rugged and its high wheels negotiated the rutty roads and even farmers' fields. It was soon found that the versatile Model T could be converted into a truck and conversion kits became a popular item on the automotive market.

Travel in bad weather was difficult for cars and commercial vehicles because the roads were so poor. A few roads were paved in the cities which were passable, except during winter storms. But until the close of the First World War, few commercial vehicles ventured beyond city limits. In the early days there was no real legislation covering roads or traffic and it was easy to get lost because there were few road signs.

The Province was not doing much to improve roads. Historically, the provincial government had had little to do with them. The municipalities looked after roads within their own borders; the rest were county roads, military roads and trails, and trade route portages; roughly built and maintained by statute labour, cleared of snow in the winter only for sleigh traffic, mired hopelessly in the spring, potholed and dusty in summer.

The First World War was what really revolutionized trucking in Ontario, as it did elsewhere. Motor transport was one of the great developments of that war, which started with hoofed horsepower and ended with horsepower on wheels. Thousands of men learned to drive and to love the noisy, smelly, unpredictable creatures of the automobile factories.

Trucks began to proliferate in 1919 and 1920, as the bulk of the men came home from the war. Army trucks, now surplus, began to find a place in civilian life. The war had demonstrated the fact that trucks could carry cargo long distances—100 miles or more in a day—under adverse conditions.

Roads were still a problem, but they began to get more attention. The Ontario Good Roads Association had been formed in 1905, and the first Canadian Good Roads Congress was held in Montreal in 1914. At that time some $60 million a year was being spent on roads across Canada and this was considered "a very large sum". Under the Canada Highways Act of

1919 the federal government agreed to pump $20 million into road building over the next five years. This was in addition to what was spent by counties and municipalities.

The effect of trucks on farm life began to be felt increasingly after 1920. The important thing about the truck to the farmer was that it picked up produce from his door and delivered it to his customer, a service the railway could not provide. That meant that farms could be much further from the railway and still earn a profit. So the farms of Ontario developed in numbers and size and more food was produced at lower prices.

Trucking fleets, as distinct from one truck owners, began to appear in large numbers; "long distance" hauling sent trucks scurrying from city to city, though long distance would scarcely compare to long distance in a later day.

The early trucks ran on solid tires, with almost no springs to absorb road shocks. Many had chain drives. They were usually without windshields or cabs. Under favourable circumstances they could reach a top speed of 18 miles an hour. Van bodies were rare and usually homemade.

By 1926 six cylinder engines were in vogue and semi trailers, even trailer trains were coming in. The first tractors were built by the users by shortening a truck chassis and rigging some kind of pintle and socket to handle a trailer or semi-trailer. The fifth wheel and standard landing gear came later. Tank trucks appeared in the late 20's and gasoline, which had been transported by truck in vertical drums, was now transported horizontally.

By 1926 the population of Ontario had reached 2 million, and Toronto close to six hundred thousand. The country had 608,000 cars and trucks—only the U.S., Britain and France had more. Of the Canadian vehicles, most were concentrated in Ontario, which had 386,728. Ontario had only 63,928 miles of roads, some little better than cart tracks, as 59,000 of the total were of dirt or gravel. A trucker still had to cross a bridge with extreme caution, especially if his truck was overloaded, as many were. The bridge could so easily collapse.

The Canada Yearbook of 1926 noted that "only the lack of an adequate road system is postponing a great increase of traffic for both passenger and freight service. The automotive industry is just becoming a factor in the transportation of passengers and freight in this country. Railways have found that the handling of less-than-carload lots of freight is often an unprofitable business. It follows that commercial trucks are being used in greater numbers to carry lighter shipments between some of the larger centres served by adequately serviced highways. There can be no doubt that motor vehicles are now carrying much of the short haul traffic formerly carried by steam and electric railways. In addition, a certain amount of traffic formerly carried over water routes has been diverted to the more modern carriers."

These early truckers were an independent breed. Only an individualist—a person of rough, tough, independent spirit—wanted to get into trucking in 1926 when roads were appalling, trucks undependable, well trained help hard to come by, government regulation non-existent and tough competition rampant. Some were little more than pirates of the road, and they liked competition fair or foul, that assured their business.

Horses were still prominent on streets and roads and some were still not accustomed to motor vehicles, especially big and noisy trucks. Some horses shied and bolted. At night, horse drawn traffic was not required to carry lights, so accidents involving trucks were not uncommon. This latter problem was rectified in 1927 when legislation was passed requiring the

lighting of horse drawn vehicles. This did not please the owners of these vehicles; since they had been on the roads long before the trucks, they assumed the right of way.

On the other hand the Hon. George S. Henry, Ontario Minister of Public Works and Highways, was a far-seeing man. He realized what trucks were doing for the province. They had, he said, "largely revolutionized social life". Himself a farmer, he noted that the rural districts had gained the most.

The year 1927 was perhaps the most euphoric of the 20th century in Canada. Nearly everyone was convinced prosperity was to be permanent, a result of good business practices and an ideal form of government. Things could only go on getting better.

Unquestionably the most important event of 1927 for trucking in Ontario was the passage of the new (one page) Public Commercial Vehicles Act which, laid the groundwork for regulation of trucks and a more orderly operation of the industry.

In the trucking industry, trucks were bought with little foresight—15% down and two years to pay. There were warnings against this risky business procedure, and the larger manufacturers decided against giving so much credit in the future. Terms would become 25% down and complete payment would be required in 18 months, with trade-in allowances included as part of the cash down payment.

But trouble was brewing. Faced with higher down payments and having already bought so many trucks, the industry could do without buying for a while and truck sales plummeted. It was not until 1930 that there was any improvement in sales and even then only in the export markets. Truck sales did not really improve noticeably until 1932.

And then, at the end of 1929, came the huge Wall Street Stock Market crash and everyone was in trouble, the truckers, the railways and their clients. The country was far too busy in the general catastrophe of the Great Depression to notice what was happening to the infant trucking industry. Yet the Depression had a deep and lasting effect on the industry.

In 1930 wheat prices plummeted, which may seem to have nothing to do with trucking, but it affected the country as a whole and that inevitably affected trucking and the railways. Whereas in 1929 wheat had commanded a price of $1.05 a bushel, the farmers got only 44¢ a bushel in 1930. Farm prices of all kinds slumped and Canada was largely a farming economy. Rural communities and the merchants in them were hard hit. It was difficult for many truckers to stay in business because few of their customers could afford to pay much. Truck owners found themselves squeezed by falling profits or downright losses and, like everyone else, they cut wages, made more demands on their men in terms of work, operated with overloaded vehicles and put off maintenance and purchases of new equipment.

There was a surplus of transportation of all kinds. Competition became destructive. Large numbers of small operators were engaged in motor transportation. Many of the smaller operators were not aware of the costs of doing business and they made such rates as seemed required to secure traffic. Many of them failed and went out of business, but others promptly took their places.

There was a bright side to these grim adversities as well, important to the history of the physical distribution concept. It became manifest to shippers and receivers that they not only got good rates, but also that they could cut inventories because the shipments could be smaller and more urgent. Ulti-

mately, some learned to time shipments so that the manufacturer needed to carry almost no finished goods inventory, and the receiver held a minimum on hand—a radical change from the methods imposed by slower moving modes and isolation.

In the early 30's equipment continued to evolve and new forms of business were developed. Refrigerated trucks were coming into use. Where once cargos had been kept cool by wet tarpaulins, later by ordinary ice packing, dry ice became available and was first used in 1931 for refrigeration.

Tank trucks were becoming ever more sophisticated and capable of carrying larger loads. And semi-trailers were beginning to look very business-like with rounded, streamlined forward sections.

Improvement in the trucking industry in Ontario was evident by 1936 when the number of licensed operators rose to 2,707 and vehicles registered under the PCV Act increased to 5,665. Most of the new vehicles were serving farmers or hauling road building materials. The cement mixer, which could mix cement while in transit, was coming into vogue about this time.

By 1941 there were 278,771 trucks registered in Canada representing, with associated plant and equipment, an industry value of $500 million and employing more than 450,000 people—more than all other forms of powered transportation put together. Many communities in Ontario were served only by truck.

Canada once again became swept up in a World War. The importance of trucks in the war effort soon became apparent. World War II was literally a "war on wheels"; soldiers carried in trucks, wheeled or tracked artillery, no total reliance on railways to transport war materials, but trucks pouring directly to the front, wherever it was. Far behind the lines, trucks supplying materials to build war factories, bringing in the raw materials for the new factories to work on, and finally transporting the finished war materials to waiting ships.

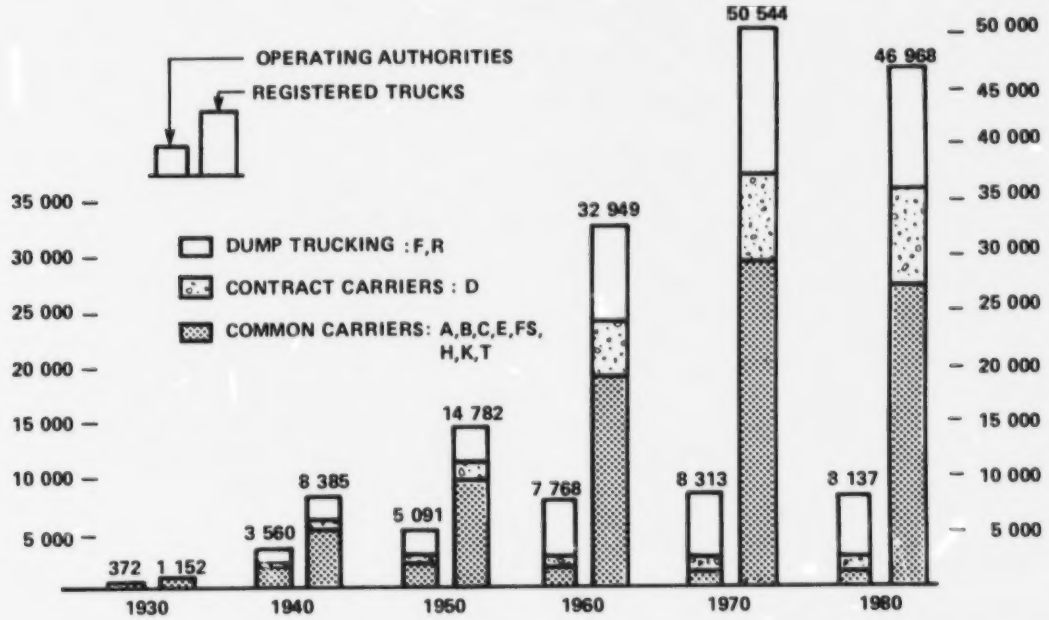
During the war serious shortages developed in Canada in oil and rubber, and the federal government was forced to take greater control of the trucking industry. A policy to enforce pooling of cargos was announced. There would be coordination of services in some areas, reserves of parts and tires would be established for each truck operator so that he could be sure of at least 18 months operation, and dead-head hauling would be drastically curtailed. Pooling of cargos not only saved valuable trucks, tires and gasoline, but reduced the need for manpower as well. Common carriers as well as private trucking were subject to pooling. In areas where there was more than one licensed hauler, arrangements were made to transfer freight so that vehicles were hauling for competing companies but travelling full instead of half empty.

After the war, in 1945, thousands of war surplus trucks were on the market and men flooded home looking for jobs. The trucking industry was poised to expand. The whole country was buying things, or trying to buy them. But, after years of deprivation and although people had lots of money, the factories were not converted from war work quickly enough to meet the demand, so goods were in short supply. Although many other businesses were making a great deal of money in 1946-47, the trucking industry was not in such favourable circumstances. It was exposed to rocketing costs of labour, trucks and parts and was still tied helplessly to prices imposed by the Wartime Prices and Trade Board. Many common carriers were in real danger of going bankrupt. But then in 1947 truckers' rates were de-controlled.

The value of a strong trucking industry became especially apparent in 1950 when the nation's first mass strike of railway unions occurred. On Sunday, August 21, the impending strike was the biggest news in the nation.

Figure 5

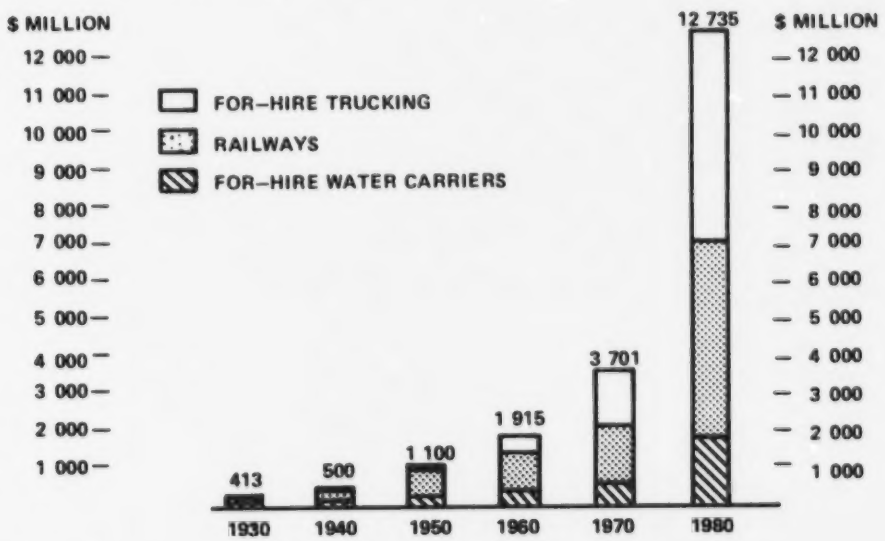
Ontario Operating Authorities and Truck Registrations



Source: Ministry of Transportation and Communications

Figure 6

Operating Revenues of Canadian Domiciled For-Hire Carriers Engaged in Freight Transportation



Notes pertaining to tabulations: (1) Some of the figures are estimates only.
(2) Trucking revenues exclude revenues of trucking firms without employees. CN express is included in rail not trucking.
(3) Rail figures include subsidies.

Sources: Statistics Canada – Cat. No. 52-208, 57-205, 55-201, 53-222 and 53-223, 53-207, 54-205, 51-206
Royal Commission on Canada's Economic Prospects, Transportation in Canada, by J.C. Lessard.

Negotiators desperately tried to avert what most Canadians thought would be a major catastrophe. But by 6:00 a.m. August 22, the strike was on. The railways came to a standstill and the freight yards were silent.

Trucking responded to the emergency with an all out coordinated effort as they had during the War. Priority was given to delivery of milk, bread, medical and hospital supplies, perishable farm produce, livestock and commodities of national importance. Pooling of loads was urged. Arrangements were made for PCV operators temporarily to serve points for which their licence did not apply—and the Ontario government gave its blessing. In the Toronto area alone roughly 45,000 trucks carried on a round-the-clock emergency pool service.

Afterwards the Toronto Star said: "An outstanding feature of the railway strike was the fine service provided by the rubber-tired transportation in the effort to ameliorate the hardships which the strike involved. It may well be, indeed, that the demonstration of the trucks' capacity to handle business which had belonged to the railways will result in the permanent alienation of some of it to vehicles that run on rubber instead of rails".

Arthur Hailey, then the editor of Bus and Truck Transport, said of the rail strike: "until then, the Canadian trucking industry was not really recognized as a national entity, but it was recognized then in a hurry, and remained so ever since".

Truck use was still developing in new ways. In 1953 Ideal Dairies of Oshawa moved the first fluid milk by tank truck in the province. Movement of livestock by truck was increasing steadily from 74.7% of all livestock transported in the province in 1951, to 78.7% in 1952.

That same year, without much fanfare, came one of the significant introductions into the railway industry: piggybacking. This concept was not really new. A hundred years earlier, gentlemen in England had shipped their carriages by rail to Scotland for the hunting season. Commercially, piggybacking had been introduced as early as 1926 by the Chicago, North Shore and Milwaukee Railroad.

In 1953 dump trucks comprised the largest single operating class of for-hire vehicles in Ontario, with an estimated 15,000 trucks engaged in that work.

In January 1954 trucks carried out a spectacular feat. They moved an entire industrial plant from Windsor to Barrie, the first time that trucks had attempted such a thing in Ontario. The move required 300 tractor trailer loads and low bed floats, open semi-trailers and van type trailers. The operation was carried out without a hitch.

In 1955 the first "in bond" cargo picked up by a truck in Vancouver from the Orient, arrived at the Midcontinent Truck Terminals, Toronto. The truckload, without having to wait for customs clearance in Vancouver, had left that city Thursday night and arrived in Toronto at 11:00 a.m. Monday, where it cleared customs. In bond transit made it unnecessary to unload goods in Vancouver for customs inspection, as well as further unloadings at U.S. border points (it was not possible to cross Canada by highway yet).

By the end of the 1950's trucks became bigger, more reliable, more sophisticated, and lasted longer. At one time a truck was considered worn out after 100,000 miles. Now a truck could be kept in operation for 400,000 miles or more.

One of the more versatile specialized vehicles was the tank truck which had developed amazingly over the years. As far back as 1914 tank trucks had been carrying gasoline, but by the 1950's various tanker types were

transporting asphalt, tallow, lard, solvents, jet fuel and sulphuric acid. Still later, tank trucks were improved to carry everything from wine to molten sulphur, liquid chocolate, cement, bulk grease, glues, resins, plastic pellets and even sugar.

Chocolate, once shipped in solid slabs, was carried by tanker in a molten state and emptied directly into the vats of the manufacturers, requiring less time and handling. Cement once transported in bags was poured into a tanker at one terminal and out into the users' silos.

In 1962 the long awaited Trans Canada Highway was opened, although it was not truly completed until 1967 by which time it had cost about $1 billion and spanned 4,860 miles.

Then in 1966 the industry found itself in a strike. On April 23 the Toronto Star printed an article headed: "Strike is Murder to Metro's Small Businesses". Small businessmen could not get, or make deliveries. The railways could move goods to the yards, but nobody could get them to their destinations. Throughout the province the consternation was real indeed. This may have spurred a trend towards private trucking which developed in the 1970's.

In the early '70's the small for-hire trucker was beginning to have a hard time. It was a time in which only big companies could deal with the increasingly complex regulations, union demands, competition of railways, swings of the economy and the uncertainties of fuel supply. Containerization, wisely pioneered by the railways, also hurt the truckers, especially the small ones. Just as it was a time for big governments, big corporations and big unions, so it was an era of big trucking companies; the small operations with their colour and individual character were fading from their dominant position in trucking.

Another sign of shifting priorities and the maturing of highway motor transportation, was the decision in 1971 by Premier William Davis to stop the construction of the Spadina Expressway. Earlier political priorities and campaigns for "Good Roads" and "Roads to Market" had certainly shifted.

By 1975 the industry was generating revenues of $2.8 billion in the province, and transporting more goods and supplies than the combined traffic of railways, buses, pipelines, ships and aircraft. The industry continued to employ more people than any other segment of transportation in Canada.

5.1.2/ Public Policy and Legislation

The operation of vehicles has probably given rise to more legislation than any other single human activity. Transportation certainly seems to be a favorite subject of politicians and politics in Canada.

Regulation of transportation *per se*, grew out of discriminatory practices of the rails of England and the United States, and the earliest regulatory laws were passed in the 1850's. Probably the landmark legislation in this field was the first federal law in the United States to regulate Interstate Commerce in 1887. It regulated the rates and service of railroads. Its aim was to prevent price discrimination, to control potential monopolies and prevent abuses by the railroads.

In 1902 the Ontario Cabinet established a Railway Committee which, through a process of metamorphosis emerged eventually as the Ontario Municipal Board, later to have a great influence on the trucking industry in the Province.

In 1903 the Canadian Federal Government established the Dominion Board of Railway Commissioners, which was intended to regulate the railways and take over the duties of a Committee of the Privy Council established by legislation in 1851 and 1868. In 1938 it became the Board of Transport Commissioners with jurisdiction over water, air, rail and road transport. Nearly 30 years later, in 1967, the Canadian Transport Commission was formed with additional responsibilities over extra-provincial trucking.

In 1904 Ontario introduced the precursor of the complex licensing system that was to follow. The Province brought in a law requiring registration of motor vehicles, the first law of its kind in Canada. Two hundred and twenty automobiles were registered. Commercial vehicles and passenger cars were not differentiated; it was not until 1915 that commercial vehicles were registered separately.

By 1926 there was rising alarm at the state of competition within the trucking industry, and the railways and automobile users were lobbying for controls over trucks. The Hon. George S. Henry, Minister of Public Works and Highways, considered introducing a bill to control trucking at a session of the Legislature in 1926. The subject had certainly been debated since 1920 when public vehicles (buses) were regulated in Ontario. But he decided to delay the bill after a departmental study showed how complicated it would have to be. Some trucks operated as for-hire common carriers in one direction and as contract carriers in the other. There were privately owned trucks, operating solely for one business or one farmer; there were trucks entirely for-hire by anyone. There were trucks that were buses on Sundays. Then there were trucks that ran only in cities, some that operated between cities and some "tramp" trucks that ran all over the place as the owner's fancy and availability of goods took them.

All of the interest groups, including the Canadian Manufacturers' Association, the electric railways, the Ontario Motor League, the Board of Trade and the Automotive Transport Association got together and worked out principles that subsequently became part of trucking regulation. The ground rules were laid down for the Public Commercial Vehicles Act, which was introduced the following year. The Act, after many changes, began to bring order to the rugged competition that had handicapped the infant industry and made it difficult for responsible operators to compete fairly.

Prior to 1927, the Ontario for-hire trucking industry had not been subject to any significant regulatory constraint. The industry was characterized by extremely easy entry conditions. The average trucking enterprise was essentially a one or two truck operation, and the degree of monopoly power in industry was very low.

The one page Public Commercial Vehicles Act of 1927 (proclaimed in 1928) gave the Department of Highways the authority to issue permits for "for-hire" trucking. The legislation did not however, lead to the imposition of any significant degree of entry control. Operating licences were issued on request. Transfers of licence required written proof of transfer. Plate fees were based on weight and distance travelled and were payable monthly. Liability and cargo insurance were compulsory.

In 1931 the Federal Government, concerned over the railway deficit, appointed a Royal Commission on Transportation under the chairmanship of Sir Lyman P. Duff. The Duff Report, delivered the following year, made a number of points on trucking which provide a possible explanation for the introduction of entry controls.

". . . . . in seeking a permanent solution of the railway problem in Canada this comparatively new and convenient form of transport, and its effect

upon the railways, cannot be ignored, and a fair basis of competition between these two transport agencies, insofar as they are acting as common carriers of either passengers or freight, must be found, not only in the legitimate interest of the railways, but also in the interest of the public and trade and industry generally.

". . . . the railways require, if they are to continue to operate efficiently, a measure of protection from long distance road competition and then equalization of the conditions under which short distance traffic is carried."

Duff recommended that trucking needed regulation and this regulation should be the responsibility of the provinces from a constitutional point of view. He recommended that PCV licences should be granted only on proof of public necessity.

At the end of 1933 the Ontario Government amended the Public Commercial Vehicles Act and transferred authority for PCV licences to the Ontario Municipal Board. Licences were to be awarded only where the Board could certify "public necessity and convenience". The Board said in a later report that: "in or about 1933, it became quite apparent that truck licences were being granted by the Department of Highways in excess of the public demand, and as a result, the policy was adopted to grant only such licences in future as the services of the public required".

Consequent to this, the Board followed three principles when deciding whether or not to issue a certificate:

a) permitting one licencee to provide all local services between two main points
b) continuance of a licence to an operator who provides a service in conformity with all regulations
c) where a licence is transferred, granting preference under equality of conditions to an operator already providing services in the district.

The procedure adopted by the Board was to consider letters and petitions from supporting shippers.

There has been much debate over the years as to the meaning of the phrase "public necessity and convenience". It has appeared in many statutes, provincial, federal and foreign. It is a standard adopted in other fields (establishment of service stations, creation of cemeteries, construction of public utilities, etc.) In some situations, such as the original U.S. Federal Transport Act of 1935 or in the British Columbia Motor Carrier Act of 1939, specific guidelines of interpretation appeared in the statute. Usually these referred to financial fitness, available facilities, performance and the like. Sometimes statutory guidelines were vague. For instance the Saskatchewan Vehicles Act of 1939 established the requirement that the regulatory board must find that "public business will be promoted by the establishment of a proposed transportation service". The Alberta Public Service Act of 1942 stated that: "if the Board finds that the existing facilities for transportation are insufficient . . . . the Board may grant a Certificate".

In Ontario, there has been no statutory nor judicial interpretation of the phrase. In practice before the Board however, the applicant has borne the burden of showing that the service proposed is not available from existing sources, or that if available, it is inadequate and unsatisfactory, or that the present licencees are unable or unwilling to provide the required service.

In 1934 the PCV Act was further amended to enable the publication, filing and posting of tariffs or tolls. Such tariffs did not appear until almost 30 years later.

Meanwhile the troubles and pressures from the railways did not abate. In Ontario the pressure on the government from the railways was intense. Premier Mitchell Hepburn finally threw up his hands and decided to appoint a Royal Commission.

He established the Chevrier Royal Commission on Transportation, under the chairmanship of Mr. Justice E. R. E. Chevrier. Its terms of reference included: to investigate the transportation of freight by motor vehicles for gain as well as the tolls and rates charged; and to report on benefits of licensing such vehicles and what further regulations should be made to prevent unfair competition with one another and with other forms of passenger and freight transportation.

Chevrier did his best with this difficult task. He had to sift through mountains of evidence produced by various powerful interests which mounted massive campaigns. Eventually on December 23, 1938 he produced his 293 page report. He recommended, among other things:

- the Province establish a separate highway transport board (established 1954)
- have special driver's licences for heavy equipment (adopted 1976)
- annual returns of important statistical facts (PCV Review recommendation)
- annual certificate of mechanical fitness of vehicles (adopted in part)
- "through" trailers enabling a cargo-carrying vehicle to move without transfer of lading (1970 and 1979)
- reduction of PCV fees.

He said " the Commission is convinced that the supervision of standards of equipment, service, hours, conditions of labour and details of operating methods of those making use of the highway for commercial purposes has become a duty devolving upon the public authority."

Despite the efforts of Mr. Chevrier to do a good job, his recommendations were overtaken by the outbreak of the Second World War. It was to be 16 years before his recommendations for a separate transport board was carried out. Some of his other recommendations came about piecemeal over the years, and some were never introduced.

Once again it was the railways that precipitated the next major event on the public policy agenda. There was no doubt that the railways of the late 40's were in permanent economic difficulty. But Canadians had a fondness for their railways which had done so much to open up the country, and declared what was needed was a new approach so they could operate on reduced deficits. At the end of 1948 the Federal Government set up the Turgeon Royal Commission on Railways. Its terms of reference instructed the Commission to investigate such things as the capital structure of the CNR. Mr. Turgeon, a former Chief Justice of Saskatchewan, emphasized to the trucking industry that "the Commission had no specific reference to investigate the trucking industry".

In spite of this reassurance trucking became a focal point of debate. Turgeon found himself in the centre of a major battle. The railways wanted to restrict all trucks. This angered many people who perceived the railways as trying to prevent people from hauling their own goods. For-hire trucks represented a small minority, about 5 percent of all trucks.

While Turgeon's Commission was unwilling to get into the battle over highways, the Federal Transport Minister the Hon. Lionel Chevrier was not.

He made a speech to the Toronto Board of Trade in which he said: "I think that the present day development of highway trucking is a very serious threat to the well-being of our railway system. If it is left unchecked it will undoubtedly impair the efficiency of our railroads and destroy the economic advantages which we all enjoy . . . . I am convinced that trucking has gone beyond the economic value of its operation, so much so that it has contributed in no small measure to the thorny transportation problems which face Canada today".

This kind of debate characterized much of the development of public policy and legislation through the early years of trucking. The rhetoric seems to have subsided in the years since the Turgeon Commission. In the 1950's the railways began to come to grips with changing technologies and economics of transportation. They began the major efforts which resulted in dieselization in the late 50's, the introduction of piggyback services, the rationalization of passenger services, and concentration on long haul heavy freight. The 1950 strike probably had something to do with the turnaround in public sympathies and refocusing the attention of management.

The year 1954 is of significance in its focus on extra-provincial road transport. In one of the last cases to be decided by the Privy Council in England, the Province of New Brunswick sought to prevent a bus operator carrying passengers from New England to Nova Scotia from picking up or letting off passengers within the Province of New Brunswick. The Attorney General of Ontario participated in the proceedings, as did the CNR and the CPR. The Supreme Court of Canada had ruled that the Province could not prohibit the bus operator from bringing passengers into New Brunswick from outside the Province, but that it was within the legislative powers of the Province to prohibit the bus operator from carrying passengers within the Province.

The famous ruling of the Privy Council in the Winner Case was that "the undertaking in question is in fact one and indivisible". It stated: "whatever provisions or regulations a province may prescribe with regard to its roads, it must not prevent or restrict interprovincial traffic".

Immediately following this decision, the Federal Minister of Transport stated in Parliament on February 23, 1954: "In our view it would not be in the public interest to have a divided jurisdiction, with the Provincial Boards controlling the traffic within the Provinces, and the Federal Board controlling the traffic moving between Provinces or between a Province and the United States, and for this amongst other reasons, we are reluctant to enter this field and thereby bring about divided jurisdiction".

A Federal Provincial conference on the subject convened in Ottawa on April 16th of the same year, discussed solutions to the dilemma for administration of regulation produced by the Privy Council's decision. One of the solutions discussed was the "Motor Vehicle Transport Act".

The Minister described the Act in introducing it to Parliament: "The Bill is a short one and is readily understood. It is the Government's answer to the difficult problem of how the Provinces can be enabled to control and regulate highway transport crossing their boundaries and using their highways. The control of road traffic using provincial highways is essentially a matter for the Provincial Boards which are established and well qualified for this purpose".

The Motor Vehicle Transport Act of 1954 has been the source of much litigation since. Its validity has been upheld however by the Supreme Court of Canada. To date there have been no amendments to this Act which dele-

gates federal jurisdiction to the provinces, though it has remained a focus of frequent discussion between provinces and the federal government and a soft spot in the overall structure of transportation jurisdiction.

With the administrative burden now so publicly placed upon the provinces, Ontario finally made a move to implement one of the key recommendations of the Chevrier Commission. In 1955 the legislation creating the Ontario Highway Transport Board was passed and became effective in October of that year. The powers to grant PCV licences were taken from the Ontario Municipal Board and passed to the new Highway Transport Board. This was perhaps the most noteworthy development on the regulatory scene in Ontario since the early 30's.

The second annual report of the Board outlines another important event which became the basis for the creation of the Canadian Conference on Motor Transport Administrators (CCMTA). It states: "Early in 1956 it was decided to invite representatives of all the Provinces to a conference on motor transport to be held in Toronto in the autumn to consider the possibility of achieving some degree of uniformity between the Provinces in the field of interprovincial transport . . . . As a result of this conference a large measure of agreement was achieved both as to the nature of the problems affecting the provinces and the means of solving them. It is expected that similar conferences will be held in other provincial capitals from time to-time in the future". This format has remained the principal means of achieving national perspectives and coordination in highway transportation administration ever since.

In 1960 the Board developed procedures for conducting "reviews" of licences. These reviews provided a means for the Board to discipline violations of the PCV Act. In some cases, licensees found their operating authorities under probation, pending further review. The Board continued this practice for nearly 20 years. In 1980, as a result of a judgment by the Supreme Court of Ontario, "reviews" were discontinued except for technical reasons.

The filing of rates, which had been authorized by the 1934 amendment to the PCV Act, finally became effective in 1963. Small intraprovincial carriers were exempted from this requirement. The Board maintains an up-to-date record of all tariffs filed and members of the public frequently attend the Board's Chambers to examine the documents filed by licensees.

In the 1966-67 session of the Federal Parliament another landmark piece of legislation was passed: the National Transportation Act. This Act was the culmination of yet another of the government inquiries and commissions on transportation—this time the MacPherson Royal Commission.

The MacPherson Report acknowledged that "the trucking industry has provided the kind of flexible transport service which Canada's growing secondary industry is requiring". It urged free competition among all modes of transportation and that this should become national policy. MacPherson also pointed out that totally unregulated free competition can lead to trouble.

It set out a proposed national policy, which became the preamble to the Act in the following terms:

> "It is hereby declared that an economic, efficient and adequate transportation system making the best use of all available modes of transportation at the lowest total cost is essential to protect the interest of the users of transportation and to maintain the economic well-being and growth of Canada, and that these objectives are most likely to be achieved when all modes of transport are able to compete under conditions ensuring that

Chronology of Events Related to Transportation and Trucking Regulation

Canada

1889—First piece of Federal antitrust legislation.

1897—Crow's Nest Pass agreement—Canadian Pacific Railway fixes its rates on grain in return for a subsidy to extend its line into the southern interior of British Columbia.

1902—Ontario establishes a Railway Committee.

1903—Federal Railway Act—created the Board of Railway Commissioners who regulate railways "for the general good of Canada".

1917—Drayton—Acworth Royal Commission—to deal with problems of bankrupt railways—resulting in the creation of the CNR.

1926—Duncan Royal Commission—on rail rates to the Maritimes.

1927—Federal Maritime Freight Rates Act—compensating the railways for reducing rates within Maritime territory.

1928—Ontario Public Commercial Vehicle Act.

1931—Duff Royal Commission—to restore strength of railways weakened by over-expansion, truck competition and the Depression. It recommended a more coordinated system of regulation for truck transport.

1933—Ontario Public Commercial Vehicles Act amended to require applicants for operating authority to secure certificate of Public Necessity and Convenience from the Ontario Municipal Board.

1934—Ontario Public Commercial Vehicles Act amended to permit publication of tariffs and tolls.

1937—Federal Transport Act—Board of Transport Commissioners given regulatory powers over rail, air and some forms of water transport. Railways permitted to make "agreed charges" in order to meet growing truck competition.

1937—TransCanada Airlines established as subsidiary of the CNR and given a monopoly on Trans Continental Service.

1938—Chevrier Royal Commission on transportation in Ontario—outlined the need for and scope of regulation of public commercial vehicles.

1951—Turgeon Royal Commission on transportation in Canada—dealt with rail rates and national transportation policy.

1954—Attorney General for Ontario versus Israel Winner—Privy Council decides the Winner case in favour of Federal jurisdiction over interprovincial undertakings.

1954—Federal Motor Vehicle Transport Act—delegating regulation of the highway modes to the provinces.

1955—Turgeon Royal Commission on agreed charges—recommended relaxation of control over agreed charges.

United States

1881—Windom Committee recommends the establishment of a publicly owned railroad to curb monopoly abuses.

1886—Senate Select Committee on Interstate Commerce Report arising from an 1885 resolution—recommended regulation of interstate transportation.

1887—Interstate Commerce Act—regulated the rates and service of railroads.

1890—Sherman Antitrust Act—first major piece of antitrust legislation.

1903—Elkins Act—on rate publishing, rate cutting and rebates.

1906—Hepburn Act—giving ICC power to set maximum rates.

1906—Caramack Amendment to Hepburn Act—established joint and several carrier liability for all carriers interchanging freight.

1920—Transportation Act—established a rule of rate making providing for a reasonable return on investment to railroads.

1933—Emergency Railroad Transportation Act—Federal Coordinator of Transportation to study carrier economies and to encourage competition in transportation.

1935—Motor Carrier Act—interstate motor carriers brought under the ICC Act.

1938—Civil Aeronautics Act—regulated airlines in the same manner as railroads and motor carriers.

1940—Transportation Act.

1942—Freight Forwarders Act amending Interstate Commerce Act.

1949—Sawyer Report—on issues involved in unified and coordinated federal program for transportation, and to investigate the effectiveness of regulatory controls over railroads.

1958—Federal Aviation Act—created the FAA to promote air transportation.

1958—Transportation Act—liberalized ratemaking.

1960—Mueller Report on Federal Transportation Policy—recommended gradual deregulation over an extended period.

Canada

1955—Creation of the Ontario Highway Transport Board.

1958—Ontario Highway Transport Board report on Bills of Lading.

1959-61—MacPherson Royal Commission on Transportation in Canada—recommended unification of Transport regulation in a single board, compensation of railways for burdens created by public policy, and freedom of ratemaking for railways. This represented a complete break with previous public policy on transportation in Canada.

1963—Ontario Public Commercial Vehicles Act regulations for the publication of rates.

1966—Ontario Highway Transport Board report on "A Study and Review of Public Commercial Vehicles in Ontario".

1967—National Transportation Act—implementing the recommendation of the MacPherson Commission and establishing competition as an essential ingredient of the National Transportation Policy.

1969—Economic Council of Canada Interim Report on Competition Policy—expressing concern of the hidden costs of regulation.

1973—Ontario Public Commercial Vehicles Act amended to plug loopholes on leasing.

1975—Anti-Inflation Board established—mandate including the examination of regulation as a factor contributing to inflation.

1975—Ontario Ministerial Inquiry into the Dump Truck Industry—recommends the re-introduction of entry controls in the dump vehicle industry.

1976—Bill 4 introduced in the Ontario Legislature to amend the PCV Act on the regulation of leasing.

1976—Ontario Select Committee on the Highway Transportation of Goods established—to study all matters pertaining to trucking.

1978—First Minister's Meeting—proposed a Federal/Provincial Committee to review all regulatory activities.

1978—Economic Council of Canada Regulation Reference—to inquire into the objectives of regulation and its economic impact.

1978—Ontario Economic Council Report on Government Regulation—Issues and Alternatives.

1979—Ontario Cabinet Secretary appointed to coordinate efforts to cut red tape and achieve regulatory reform.

1980—House of Commons Special Committee appointed to act on Regulatory Reform—no recommendations were implemented.

1980—Federal National Energy Program—Regulating Prices of Oil and Trade—termed the most massive act of government intervention in the Canadian economy since World War II.

1980—Law Reform Commission of Canada report on independent administrative agencies.

1981—Economic Council of Canada Final Report on "Reforming Regulation"—urges policy changes and deregulation of many sectors.

United States

1961—Doyle Report—criticized vague transportation policy, recommended liberalized regulation, but stopped short of advocating deregulation.

1964—Urban Mass Transportation Act.

1974—Summit Conference on Inflation. Economists support deregulation.

1975—Government Operation Subcommittee—chaired by Senator Edward Kennedy—begins hearings on regulation of airlines.

1975—Government Operations and Commerce Committees initiate joint study of regulation.

1975—Federal Statutes allowing states to have fair trade laws repealed.

1975—Civil Aeronautics Board Staff Report on the Effectiveness of Airline Regulation—recommended the elimination of regulation.

1976—Railroad Revitalization and Regulatory Reform Act—permitted the ICC latitude to move in the direction of deregulation.

1976—Presidential Task Force to streamline regulations—first targets: Occupational Health and Safety Administration, Federal Energy Authority, Export Control Administration, Department of Commerce.

1976—Jimmy Carter elected President.

1977—H.R.6010 deregulated entry to the air cargo industry.

1977—Department of Justice report on Economic Regulation in Ocean Shipping—recommended pooling agreements be prohibited.

1977—Study on Federal Regulation (4 volumes)—suggestions on reform of regulatory agencies.

1977—ICC report on improving motor carrier regulation—streamlining the regulatory process.

1978—Civil Aeronautics Board deregulated air fares and removed route restrictions.

1978—Airline Deregulation Bill passed by Congress.

1979—Trucking Competition and Safety Act (Carter/Kennedy Reform Bill)—advocated removal of restrictions on licences, repeal of antitrust immunity, partial deregulation of rates, expansion of exemptions.

1979—Intercorporate Hauling—ICC removed restrictions on carriage of goods between commonly held corporations.

1980—Motor Carrier Act—"deregulating" the motor carrier industry.

having due regard to national policy and to legal and constitutional requirements (a) regulation of all modes of transport will not be of such a nature as to restrict the ability of any mode of transport to compete freely with any other modes of transport; (b) each mode of transport, so far as practicable, bears a fair proportion of the real cost of the resources, facilities and services provided that mode of transport at public expense; (c) each mode of transport, so far as practicable, receives compensation for their resources, facilities and services that it is required to provide as an imposed public duty; and (d) each mode of transport, so far as practicable, carries traffic to or from any point in Canada under tolls and conditions that do not constitute (i) an unfair disadvantage in respect of any such traffic beyond that disadvantage inherent in the location or volume of the traffic, the scale of operation connected therewith or the type of traffic or service involved, or (ii) an undue obstacle to the interchange of commodities between points in Canada or unreasonable discouragement to the development of primary or secondary industries or to export trade in or from any region of Canada or to the movement of commodities through Canadian ports."

Part III of the Act, which would bring highway transportation under the jurisdiction of the Act and the federal government, has never been promulgated. Jurisdiction over trucking has remained with the provinces.

The 1970's have seen the evolution of a new phase in the economic development of the industry, which has created a lot of anxieties and turmoil during the decade. One of the trends that appeared was the movement towards bigger business and professionalization of management. The days of the small trucker appeared to be fading, though the Chairman of the Highway Transport Board, E.J. Shoniker pursued a policy to stop the trend. He said: "..... it is vitally important that we keep the small trucker in the trucking industry. The smaller shipper likes personal service".

Another development of the decade was the re-emergence of private trucking and the growth of intermediaries. The development of leasing and pseudo-private trucking became a particularly sore issue. In 1976, Bill 4 was introduced into the Legislature, in order to amend the PCV Act to curtail one-way leasing. But the Legislature was simply unable to deal with such basic legislation and changes to the industry. The Bill died on the order paper.

Another development of the 70's was the rapid accumulation of regulations, increasingly hard to fathom. The job of managing trucking became more complex. Apart from the normal constraints of civil law, criminal law, tax laws and accounting, the size, weight, speed and design of the production unit, even the buildings from which they operated, were controlled by statutes. The equipment specifications evolving from this type of control legislation were incredibly detailed, to the point where a light bulb required by one jurisdiction would be illegal or unacceptable in another. Quite apart from the detailed controls on production equipment, there were also complex and conflicting controls on the use of labour in various jurisdictions.

The accumulation of regulation was occurring in other fields as well. A general sense of being over-regulated, overtaxed, overgoverned developed. There arose a swelling debate, particularly in the U.S., against regulation. The crusade gained momentum during the Carter administration beginning in 1976. The theories and doubts which surrounded this debate were part of what contributed to the failure of Bill 4 in Ontario.

As the Honourable James Snow, Ontario Minister of Transportation and Communications noted in the Legislature on April 20, 1976: "various members of the general public, the Legislature, the highway transport industry, the shipping public and the news media have raised many questions over the operation of the public commercial vehicles system—specifically as such operations concern the Public Commercial Vehicles Act .... no satisfactory response has been developed or offered to address the criticisms which have been directed at the system".

Once again, faced with pressures from many directions, a minister of transportation was forced to declare the need for a public enquiry. In May of 1976 the Select Committee on Highway Transportation of Goods was created, and charged with the responsibility ".... to examine, investigate, enquire into, study and report on all matters pertaining to the transportation in Ontario of goods on Ontario highways, including all matters affecting or pertaining to the shippers of goods and the transporters of goods whether for gain or not for gain, the regulatory process and the public interest in general...."

The Select Committee's final report was tabled in the Legislature on April 29, 1977. A massive document of 1,235 pages, it was the result of the most far-reaching examination of the trucking industry ever undertaken in Canada. It contains 233 recommendations, most of which were implemented in the following few years, including one which led to the formation of the PCV Review Committee in 1981.

5.1.3/ The Current Situation

PCV Operating Authority

The Public Commercial Vehicles (PCV) Act dictates that no person shall operate for compensation, a commercial vehicle for the transportation of goods of any person, unless he has first obtained an operating authority. The Act requires that, before the Minister of Transportation and Communications issues an operating authority, an applicant must first obtain a certificate of public necessity and convenience from the Ontario Highway Transport Board.

The Board will hold a hearing to determine whether or not public necessity and convenience warrants the issue of a licence. In its hearing, the Board receives representations by the applicant as to the need for the service. The application may be challenged by the owners of existing operating licences which authorize the same service.

Public Necessity and Convenience

The test of public necessity and convenience applied by the Board is designed to ensure a reasonable and adequate level of competition within the transportation industry and to ensure that shippers will be provided adequate service. In 1979 the Cabinet provided further guidance to the Board by Order-in-Council which indicated that trucking should:

i) support Ontario's general economic productivity;

ii) use capital, equipment and manpower resources efficiently;

iii) promote the efficient use of energy and minimize empty movements;

iv) be responsive to existing market demands and changes thereto in terms both of the level and type of service;

v) offer service at the lowest cost in the long run;

vi) be characterized by effective competition both in the trucking industry and between the trucking industry and other modes;

vii) be innovative in service levels, equipment design and utilization, administration and freight handling procedures;

viii) take advantage, where possible, of intramodal and intermodal coordination;

ix) be provided by an appropriate mixture of small, medium and large operators.

Exemptions

The PCV Act does not regulate what is defined as private or intercorporate carriage of goods. It also exempts certain other movement of goods:

a) Goods transported within a commercial cartage zone or an urban zone (which is subject to municipal regulation).

b) Fresh fruit or fresh vegetables grown in the continental U.S.A.

c) Farm or forest produce, other than live stock or milk that are the produce of the farm or forest from which they are being transported.

d) Ready mixed concrete.

e) Domestic and municipal garbage, refuse and trash.

f) Livestock, feed, seed, fertilizer, farm produce other than poultry or milk, or supplies in two axle trucks.

g) Wheat (under certain circumstances).

Leasing

Leasing of vehicles may be regarded as private carriage and therefore not subject to the PCV Act, under certain conditions spelled out in the Act. The legislation states that a lease shall not be considered to be a valid lease:

a) unless it is in writing setting out the terms of the lease;

b) unless the lessee acquires or exercises exclusive possession and control over the leased vehicle;

c) where the lessor or his agent engage or pay directly or indirectly the driver of the vehicle;

d) where the lessor or his agent exercises any control over the driver of the leased vehicle;

e) where the lessor of the vehicle or his agent assumes any responsibility for the goods transported in the vehicle;

f) where the vehicle is the subject of more than one arrangement or agreement for its use during the same time period.

Shipper Responsibility

There is a shipper responsibility section in the Act, which provides a minimum penalty of $150 where a person knowingly hires an unlicensed carrier to transport goods.

Freight Forwarders

The PCV Act also regulates the operation of freight forwarders and requires them to be licensed.

Transfers

All transfers of operating licences must be approved by the Minister after a hearing by the Board to determine whether public necessity and convenience would be prejudiced by the proposed change.

Licence Specification

Licences are issued by classes of authority as outlined in Figure 7. In addition the OHTB has the power to "prescribe terms and conditions to govern the transportation of goods ..... and to approve the conferring by the licence of special, exclusive or limited rights with respect to the operation". The Board has used this authority to put restrictions on operating licences with respect to commodities carried, gross shipment weight, vehicle types employed, and origin and destination. Examples of these restrictions might include:

- "restricted to 12 commercial motor vehicles and trailer combinations."
- "restricted to shipments not exceeding 60,000 pounds only when carried on top of a bulk load."
- "provided that the load bearing equipment service of the equipment utilized be of a height not less than 45 inches from the ground."
- "one person's goods only at a time to be carried on one trip."
- "no movement of telephone poles."

Industry Dimensions

The detailed classification of operating authorities listed in Figure 7 gives some indication of the complexity of the structure of the industry. It is not a single homogeneous industry, but is made up of a wide variety of "sub-industries". An outline of the structure of the industry in Ontario is provided in Figure 8, along with an indication of the number of operating authorities within each "subindustry".

Very little public information is assembled on the industry, so it is very difficult to outline the dimensions of its activities. The number of companies operating in any particular sector is unknown, except for those types of service falling under the PCV Act. Statistics Canada does collect some statistics, and a profile of the for-hire industry in 1979 from that source is contained in Figure 10.

An indication of the scale of private trucking relative to for-hire trucking has been derived from surveys conducted by the Ontario Ministry of Transportation and Communications. The results are tabulated in Figure 11.

Figure 7

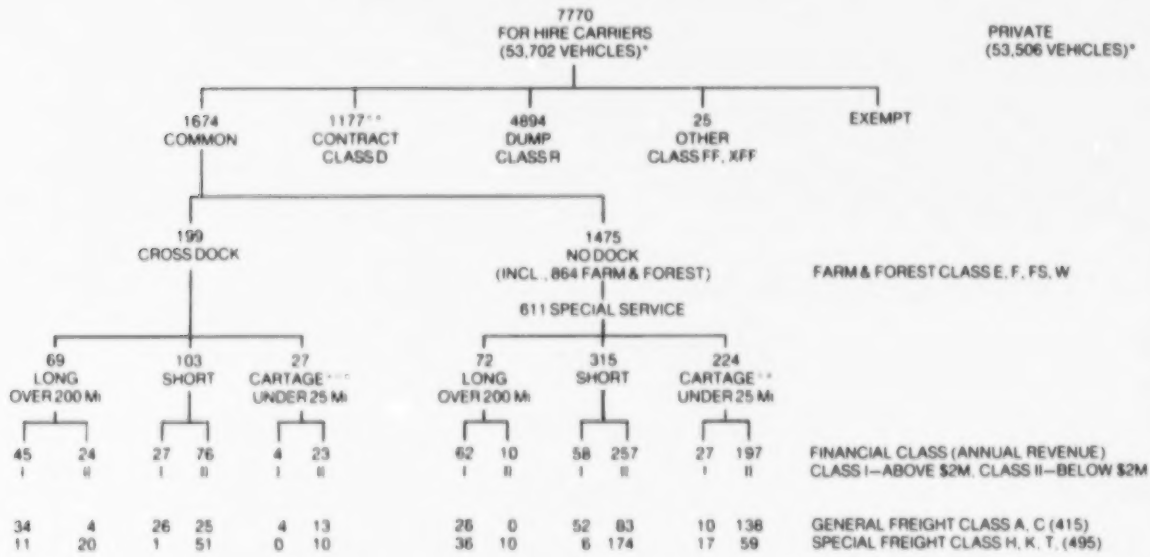
PCV LICENCE CLASSES

LICENCE CLASS	TYPE OF EQUIPMENT	TYPE OF SERVICE	OTHER
A	straights, all enclosed trailers open top, trombone, pole, doubles, etc.	generally L.T.L. some T.L. general freight	does not include motor vehicles, used household goods, tank traffic, sand and gravel
C	a similar range of equipment as "A" carriers	generally T.L. to or from places named in licence	
D	type of equipment required to handle products named in licence	specific shipper(s) and or named commodities	contract or common depending upon terms of licence
E	stainless-steel tank	milk or cream	
F	variety of equipment depending upon nature of product, loading and unloading devices	rough lumber, bricks, tile, cement blocks	
FS	"Possum Belly" trailers for livestock, poultry trailers	livestock, fertilizer, seed	
H	drop frame equipment, pads, belts, hooks	used household goods	
K	low-bed float equipment	heavy hauling specific shipper(s) and / or named commodities	contract or common depending upon terms of licence
R	variety of dump equipment	sand and gravel	
T	variety of tank equipment	dry or bulk liquids	contract or common depending upon terms of licence

Figure 8

PROVINCE OF ONTARIO

PUBLIC COMMERCIAL VEHICLE LICENCES, 1981



*Includes only the following types of power units: box, dump, flatbed, stake, tanker, tractors. Figures also include double counting of vehicles registered more than once per year.

** Contract includes 162 operators with common authorities as well.

*** Cartage with PCV licensing.
ie. Excludes the majority of cartage operators, who hold municipal licences only.

Figure 9

INTERMEDIATE TRANSPORTATION SERVICES

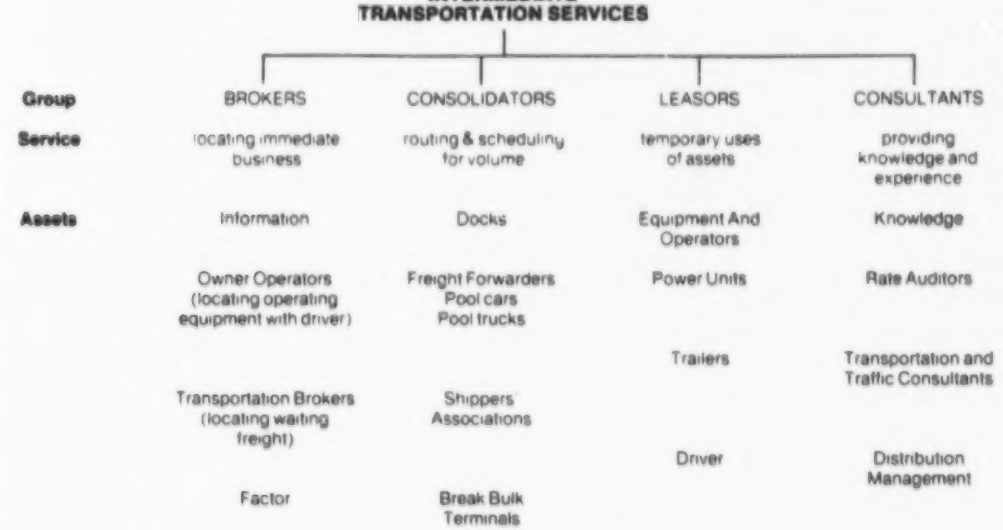


Figure 10

A PROFILE OF THE TRUCKING INDUSTRY IN ONTARIO 1979

(figures from Statistics Canada Reporting)

CHARACTERISTICS	CANADA (total)	ONTARIO (total)	ONTARIO (general freight)	ONTARIO (raw materials)	ONTARIO (other)
ESTABLISHMENTS REPORTING	3,889	1,044	420	360	264
TOTAL NUMBER EMPLOYEES	96,584	37,178	27,507	3,088	6,583
TOTAL EQUIPMENT OPERATED	136,404	56,436	40,789	4,258	11,389
TOTAL OPERATING REVENUES	$4,665,656,984	$1,711,128,645	$1,172,162,355	$156,046,612	$382,919,678
TOTAL OPERATING EXPENSE	$4,470,039,849	$1,622,470,391	$1,113,017,746	$146,256,252	$363,196,393
TRANSPORTATION EXPENSES	$2,708,926,741	$978,273,468	$664,600,474	$98,488,642	$242,908,326
TOTAL TERMINAL EXPENSES	$352,518,345	$144,967,906	$134,199,475	$1,868,538	$12,041,082
MAINTENANCE & GARAGE EXPENSES	$519,895,518	$167,631,456	$104,288,896	$20,392,816	$44,031,569
ADMINISTRATION & GENERAL EXPENSES	$888,699,245	$331,597,559	$209,928,901	$25,506,256	$64,215,416
TOTAL SALARY & WAGES	$1,739,009,099	$677,506,967	$505,959,816	$47,143,588	$124,403,563
TOTAL ASSETS	$2,692,507,880	$1,009,670,175	$692,282,328	$115,079,780	$202,308,067
TOTAL LIABILITIES	$1,942,802,370	$702,245,026	$474,216,446	$84,286,523	$143,742,057
TOTAL OWNER(S) EQUITY	$749,705,510	$307,425,149	$218,065,882	$30,793,257	$58,566,010

Notes

1 the figures include all "for-hire" trucking, common and contract

2 column 4 "raw materials" includes carriers of forest products, dump, and bulk liquid

3 column 5 "other" includes carriers of motor vehicles, heavy machinery, refrigerated solid products, agricultural commodities, live animals, armoured truck service, building materials, mine ores, explosives or dangerous articles

Figure 11

ONTARIO

COMMODITIES HAULED BY FOR-HIRE AND PRIVATE TRUCKS

ESTIMATED ANNUAL QUANTITIES

1978

	TRUCK MOVEMENTS (000 s)				TONNAGE (000 s)			
	FOR-HIRE		PRIVATE		FOR-HIRE		PRIVATE	
	#	%	#	%	#	%	#	%
I Live animals, beverages, tobacco	809	39.7 (16.7)	1,227	60.3 (24.6)	11,009	53.1 (17.0)	9,734	46.9 (21.9)
II Crude materials	608	54.9 (12.5)	500	45.1 (10.0)	11,139	63.2 (17.2)	6,489	36.8 (14.6)
III Fabricated materials	1,317	43.7 (27.2)	1,699	56.3 (34.1)	23,768	54.2 (36.7)	20,046	45.8 (45.1)
IV End products	715	39.4 (14.7)	1,102	60.6 (22.1)	5,505	51.4 (8.5)	5,201	48.6 (11.7)
V Motor vehicles, parts	563	73.8 (11.6)	200	26.2 (4.0)	5,570	78.7 (8.6)	1,511	21.3 (3.4)
VI Misc. end products	839	76.3 (17.3)	260	23.7 (5.2)	7,771	84.1 (12.0)	1,467	15.9 (3.3)
TOTAL	4,851	(100.0)	4,988	(100.0)	64,762	(100.0)	44,448	(100.0)

Sources and notes

Commercial Truck Survey, MTC, 1978

Parentheses indicate % of the total number or tons moved by the mode

Intermediaries

The scale of intermediary services in Ontario is the greyest of all the sectors of the industry. These have experienced enormous growth in the 1970's and have become an important and controversial part of the industry structure.

Intermediaries are neither private nor for-hire operations, but fall somewhere between in a legislative or business sense. They include (1) brokers (2) consolidators, (3) lessors, (4) and consultants (see figure 9). Depending on circumstances each of these services might or might not fall under the PCV Act.

Intermediaries generally do not provide "common" services in that they do not solicit, advertise or "hold out" their services to all comers. They do not publish a public tariff and are prepared to negotiate price. They tend to specialize and will customize their services to suit customer needs. They feel that the current PCV Act omitted rather than outlawed the kind of service they provide.

5.2/ Issues

To say that the task which confronted the PCV Review Committee was complex, would be understating the matter. The industry has matured and become very sophisticated and technical, and public policy on regulation is in flux. To complicate matters there is a desperate lack of statistical and factual data available on the industry, and a surplus of rhetoric and mythology.

We spent a period of about 10 months taking stock of the situation, and trying to clearly identify and agree on the issues of the future which have to be addressed in reforming the PCV Act. This Section contains a synthesis and summary of those findings.

5.2.1/ Situation Analysis

"Within only thirty years the piston engine aircraft disappeared and in only a little more than forty we built every expressway that now exists .....but bigger changes are coming in less time than that."

J. H. McNeal: Budd President

Economic Factors

It would be a cliche to suggest that "these are turbulent times"; but it would seem that change and turbulence are indeed the most certain things we have to anticipate. The only thing which distinguishes one decade from another is the brand of turbulence.

The economic engines of change in the 1980's include inflation and rising global trade and competition. These forces have the potential of redistributing future activities and gains—in spite of the best laid plans and expectations of the construction and growth decades of the 1950's and 60's. Even some shortages, such as the crisis in energy in the early 70's, can be placed in the context of inflation and rising global competition for a share in growth. In transportation, the effects of these forces are creating change for shippers, carriers, and government.

Shippers and carriers are wrestling with the prospects of sharply rising costs of equipment, fuel, interest and labour. These translate to the need for more efficiency, and the prospects of shrinking margins (higher risks for lower returns). Add to this the short term effects of over-capacity created by a deep recession, and it becomes imperative to be able to respond to this phalanx of economic forces.

Governments too are faced with similar problems of how to use or change the public infrastructure in the face of those forces. They must respond to demands for increasing economic and social effectiveness, for less cost (higher expectations for lower resources). They must question how to main-

tain the greatest returns on the investment in public highways? How to change the legislated structure of transportation to produce an adaptable system which allows shippers and carriers to better manage the challenges of inflation, competition and changing technology?

The Ontario Government outlined some of its own analysis of appropriate public goals for the 1980's at the First Minister's Conference of February 1982:

- productivity growth is the key to future real income increases for Canadians
- innovative, Canadian based, internationally competitive economic development has to be a goal for a trading nation such as Canada
- these things can be accomplished by (i) restoring a climate of confidence; (ii) encouraging small business creation and development; (iii) increasing investment; (iv) developing human resources; (v) enhancing trade and export opportunities.

In the world arena, comparisons with Japan have become an international pastime. If that is born of envy, and if Japan is a good example, then wealth lies not so much in an endowment of physical resources—as in human resources—and what one does with trade opportunities.

The key question is how to structure the responsibilities, opportunities and the means, for producers and consumers to deal with the economic challenges and opportunities that lie ahead. Specifically how to do it for shippers and carriers in Ontario. And what are the implications for the Public Commercial Vehicles Act?

Efficiency and Flexibility

When the effects of change and economic pressures ripple through the economy and reach the distribution system, the result is tighter scrutiny/management of excess; that is tighter management of inventory and empty trucks, and more productive uses of time and money. The response is the same for all sectors: in primary industries such as forestry, mining or farming; the manufacturing sector; or the service industries, such as trucking itself.

As spare capacity and inventories are pared back there is less slack in the system with which to absorb normal variations and important opportunities. The response must come from a more flexible production system—including transportation. More utilization in planned operations, more competitive purchasing, and development of premium transport services to reduce either stored or in-transit inventories or both. This also means more consolidation, rationalizing of production, warehousing and distribution facilities, and migration of freight towards faster modes. As shippers restructure to adapt to economic pressures, trucking becomes a more strategic resource. Users will want to exploit all of the flexibilities of the truck mode.

A key to survival in the trucking business, therefore, will be increasing efficiency and flexibility—to respond both to the demands of customers, and to economic pressures on the industry itself. What will be needed is more tailoring of price and service, bigger and more specialized equipment; and these will be directed towards achieving greater utilization and reducing spare capacity. Carriers may also pursue more specialization or diversification (another aspect of flexible service) to manage the risks inherent with less spare capacity and slimmer margins.

Shippers think that the current PCV Act fails to recognize the need or advantage of such flexibility. Carriers think that the Act contains some unnecessary roadblocks to the desired level of flexibility. It binds resources to fragmented markets (routes and commodities) and ties down more resources dealing with red tape. Overlapping regulation and complex specifications of authority add to this burden and further deflect energies from service.

Changes to the Motor Carrier Act in the United States made in 1980, relate closely to these matters. Many of the effects of relaxing the degree and detail of regulatory restrictions on trucking in the U.S. are difficult to distinguish from the effects of the recession, and have yet to be confirmed by time. But it is apparent that both shippers and carriers have been encouraged to manage more strategically.

Equitable Competition

Tougher competition for the Canadian economy, it appears, will be transmitted into tougher competition within the trucking industry. The competition for freight will come from all directions: from trucks, from other modes, and in the long run from changes in production. There will be more freight, or less, produced and moved in Ontario depending on how competitively the goods can be produced and delivered. Production and distribution strategies will change according to whether transport is seen as part of the problem, or part of the solution. Other modes, such as air and piggyback, will work away at any freight where there is a premium on time or cost. And truckers will find new ways and wrinkles to use the technical or legal infrastructure to compete for business. As the MacPherson Royal Commission declared on behalf of the railroads in the 1960's, no mode or service has any monopoly on the freight any more.

With the maturing of the trucking business, the market has started to segregate itself out, and the variety of competitors within the industry have indeed mushroomed during the 1970's. The strong growth of private carriage and leasing alternatives being the best examples. Also there has been the more recent explosive growth of couriers and transportation brokerage (both of which have probably generated new freight), and the growth of contract services, using a tendering or bidding process.

Most of this competition escapes the burdens of regulation, and it has eroded the domain of the traditional regulated carrier. Some interests are exploiting the system of regulation itself to carve their niche, such as the intermediaries—and others are calling for liberalization of regulation so the new services can be expanded further, such as private carriage. The trends do not favour continuation of existing regulation.

In the end, the pressures on the economy have shown up in pervasive competition pressures within trucking; and far from providing shelter *from* competition, regulation itself has become an instrument to provide shelter *for* competitors. The "traditional" regulated carriers have not been able to meet the competition within the Act, and in response have turned to "bending the rules" themselves where necessary.

The government has failed to close the door on this kind of competition. The incentives to bend the rules or find loopholes are enormous, partly because of the inflexibility of the current system and the drive to outmanoeuvre opponents.

In moving to close loopholes or eliminate them with exemptions, government often creates greater problems of detail and complexity; for example, the complexities of defining the location of Ottawa, the qualities which exempt a turnip, or when a lease is a lease. Detection and prosecution of offenders under current legislation is difficult and expensive. Finally, when the courts place PCV offences in the context of other crimes against society, they do not impose the harsh or punitive penalties which would act as deterrents to offenders.

All of this is seen as creating an unjust and an unfair situation. Whatever it is that the current government rules are supposed to do, and whether or not they achieve it, it appears that competition is being waged according to a set of rules different from the PCV Act. For those with any regard for the obligations, privileges and commercial order supposed to be created by the laws, the situation is untenable. The law is discredited and those that conform bring upon themselves burdens not suffered by their competitors, and for which there is no compensation.

Throughout the examination of issues a universal refrain we have heard has been that whatever the rules, there must be higher compliance in the future, in order to restore fair competition.

Obligations and Risks

Anxieties over the state of competition in trucking are not new. They were one stimulus to the original PCV Act in the turbulence of another decade, the 1920's. Both shippers and carriers had fears then which government reconciled in the bargain which is the basis of the PCV Act.

In the 1920's Ontario was a rural economy where a high proportion of shippers were small and remote. Veterans of World War I were proving what they discovered in Europe—that trucking was a technically and commercially viable alternative to railroads. While there was widespread and sophisticated knowledge of the railroad market, there wasn't the same sophistication in the truck market. Small and rural shippers feared that they would be by-passed by the advantages of the new mode, as they had initially by the railroads. And carriers feared that unsophisticated truckers would cut rates below long run costs, and drive themselves and everyone else through revolving bankruptcies.

Both fears appeared justified, and the PCV legislation was developed to regulate the industry as a utility, like the railroads. The bargain contained in the Act was that in return for an undertaking to serve all points in a given territory without discrimination (i.e. at reasonable rates), carriers would be protected from excess competition. Investment risks were made more predictable in return for service extensions. The instruments to achieve this were the licence/authority or "franchise" and the "common carrier obligations".

During the relatively stable 1950's and 60's, the result was that the industry attracted capital and grew phenomenally. It grew to the point where it is now a three billion dollar industry in Ontario and the dominant mode for goods transportation in the province. The issue now is, will the bargain reap such returns for a more mature industry in the 1980's and 1990's?

The anxieties of the small/remote shippers have diminished today. The ubiquitous truck has found its way into many farms and businesses; and economies of scale in trucking have not materialized to the extent they did in railways or that was expected in trucking. The small shippers/communities have not found themselves greatly needing or receiving trucking cross-subsidies. Carriers have not found their obligation to serve to be a great burden, and few have been called to account for their part of the bargain (perhaps two in twenty-five years).

On the other side, some carriers feel there are still many unsophisticated competitors capable of driving the market down to disastrous levels. And a new fear has arisen. The few economies of scale that have been discovered reside in the LTL or cross-dock market (market extent). Sophisticated and strongly capitalized competitors in this business are capable of deliberately depressing markets and surviving. Some of the small LTL carriers today have the same fear as their predecessors, that prices will be unable to regulate supply in the LTL industry in the same way they do in other sectors of the economy. They fear that the result of unchecked competition in this segment of the market will be concentration—the survival of only a very few, very large carriers, probably based in the United States.

Role of Government

The bargain appears unsatisfactory and empty now. No one is being asked or forced to advertise, serve, or price all traffic equally (the common carrier obligations); no obligations or responsibilities are required of the shipper to ensure continuous service; and intermediaries have found ways to intermediate or get around government regulatory protection. The carrier's risks are not predictable anymore, and while he bears no great public burden of cross-subsidy through rates, he retains a variety of residual burdens of regulation—such as extra fees, extra rules, and being singled out as

a target for sanctions related to other rules and norms of business practice such as safety, labour, taxes, etc.

What then are the issues to be addressed by public commercial vehicle legislation in the coming years?

For certain there must be an improvement in the climate of confidence. If the Act was born of fears of market failure, it now suffers from fears of regulatory failure. The confidence about the intent and the application of current legislation is very low. Shippers can see problems and few advantages in the legislation, carriers cannot assess their risks or plan under current circumstances, and frustrated public administrators can find little to appeal to any popular sense of justice or common sense in pursuing the significant decisions they must make under the Act.

Users want to continue to be able to find sound public carriers to carry their goods, with private carriage continuing to be an option. Some help in qualifying carriers to an appropriate standard would make risks more predictable. Increased operating freedom for carriers may also prove useful, in that it will permit them to operate without artificial constraints.

The more that is known for certain about any market (such as its obligations and privileges), the lower the risk premium for entering (or not exiting) that market. The more predictable the risks, the more confidence investors have about their ability to manage around the risk, and obtain adequate compensation. Regulation was intended to provide a measure of stability by moderating some of the risks associated with a developing industry. A structure which allows existing and potential investors to predict and assess risks is crucial to the success of the market in the future as well.

Unwitting or incompetent operators in the industry are capable of creating uncertainties beyond non-compensatory prices. Both shippers and carriers indicate that the occasional bad performer is quite capable of lowering the level of confidence in an industry (segment of trucking) as a whole. An appropriate level of competence and a minimum performance standard would promote confidence in the industry.

For their part, public administrators feel that higher levels of compliance must be achievable in new legislation. The present legislation is too far from accepted norms of doing business to encourage much willing compliance or to justify harsh penalties. New legislation must make it simpler to distinguish legal from illegal situations, and the enforcement mechanisms provided must be less clumsy and more cost effective.

To pursue all these concerns, the main role for government in future legislation should be to build confidence in the fairness and effectiveness of the transportation market.

The legislation must provide a process for administration and adjudication which is clear, simple, evenhanded and cost effective. And of equal importance, transitions must be foreseeable, fair and realistic. It should not create major discontinuities.

Our view of the principal objectives and trade-offs that must be achieved are summarized graphically in Figure 12.

Government should articulate the trade-offs that are made and the objectives being pursued by the legislation and explain to all parties and the public the expected results, including implications and costs. It is important that there be popular understanding and acceptance of the way the industry is to be regulated, and support for the resources to be committed to that end.

Concerns & Opportunities

A compilation of issues raised in the Committee during extensive discussions on the current situation in trucking regulation.

The issues are organized under six major headings or perspectives: General Context, Shippers, Carriers, Market, Administration, Process. Most issues were encountered from more than one perspective, but are generally listed here under one heading only.

Different points under each heading are stated as concerns, as outcomes wanted from the regulatory system, or as suggested prescriptions for the Act itself. It is possible for an issue to be expressed in all three ways. No attempt was made to assure that any issue was progressively refined in this way.

The columns should be read independently.

General Context

concerns	outcomes wanted	prescriptions
Inflation	Productivity of infrastructure	Competition
Foreign competition	Productivity of the economy	Flexibility
Energy efficiency	Innovation and efficiency	
Restructuring	Reduce impediments to mobility of goods	
More uncertainty		
Simplification of doing business		
Unintended barriers to domestic/international trade		
	Coordinate nation-wide	
Mode shifts—continuing		
Corporate concentration	Quality transportation infrastructure	
Geographic concentration		
	More intermodal opportunities	
Sub-optimal use of transportation resources	Improved utilization	
Public safety		
Regulation is pathological	Reform should be incremental, logical, simple	Induce self-regulation
Size and regulation breed arrogance		Regulation should prevent things, not promote
Quality of management is the key to productivity/wealth	More responsible consumer	
		Be direct
	Public should know impact of regulation	
Paternalism of regulation inhibits decision making by consumer		
	Better consultative process between government and industry	
Deregulation in the U.S. has stimulated better management		
Deregulation will result in concentration		
Regulation inevitably generates capitalization effects		

Shippers

concerns	outcomes wanted	prescriptions
Truck essential to competition	More rate/service competition	Remove barriers to private/custom services
Mode shift to truck especially in the north	Low inventories/ rapid service	Protect northern carriers
	More consolidation	Reduce complexity in operative authorities
Too few carriers in north	Bigger, specialized, sophisticated equipment	Establish 3 classes: private, contract, public
Too many empty trucks		
Foresee more piggybacking	Competent stable carriers	Reduce entry requirement
Carriers hamstrung by restrictions	More flexibility	Replace p.n.&c. with fitness
Infrastructure good	Expand private/exempt	Open intercorporate
Trucking competition improving	Confidence in regulation and enforcement	Permit private to use owner operator
Bidding not yet adequate		Allow private carriers to trip-lease
Too much "prying" in entry process		
Common carrier obligation		
Shipper responsibility		
Role of the tariff bureaux	Facilitate more tendering	Reverse burden of proof
Hearings too costly	Facilitate more contract service	Simplify all procedures
Public image, reputation and certification important	Ensure quality	Set only uniform weight and safety standards
Rates are higher for small/remote shipper/receivers	Reduce cost of hearings	Create complaint boards
Remote communities get less frequent service	Reduced number of government forms	
High minimum charges		
Couriers are responsive		
Industry/sectors do not pursue different principles		
Billings don't match estimates and quotes		

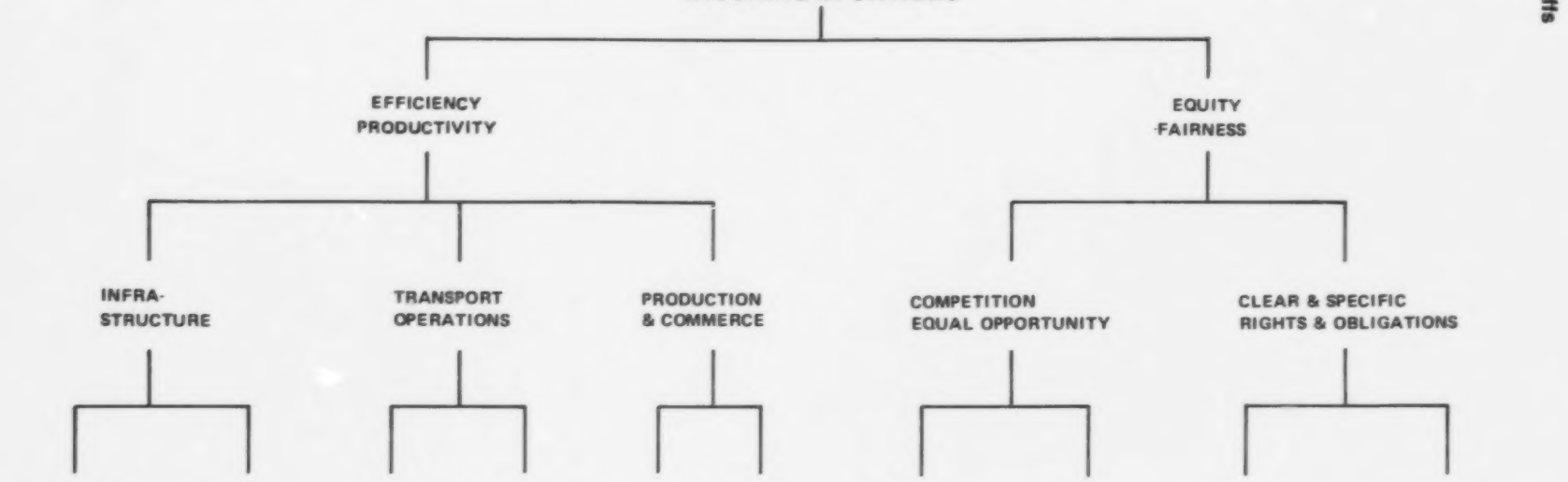
Carriers

concerns	outcomes wanted	prescriptions
Higher risks, lower returns	Adequate profits	Retain entry control in some form
Capital discouraged by uncertainty	Attractive investment climate	Stop selective deregulation
Fluctuating / seasonal demands Diversify to survive	Fair competitive environment	Establish truth-in-leasing (ICC Rules)
	Public safety	
Rising costs: equipment, fuel, interest, labour	Flexibility	Cartage licensing by OHTB
Overcapacity (chemicals, lumber, R's)	Efficiency	Compensate for obligations
Safety performance of non-regulated sectors	Prevent destructive competition	Open up contract class
Entry of private carriers into for-hire market	Reduce empty miles	Rationalize authorities
	Treat each segment appropriately	Remove gateways & route restrictions
Decrease in LTL (consolidation by shippers)		Reduce commodity restrictions
Truck industry structure is complex	Prevent concentration	
Owner operators lack business skills	Eliminate fraudulent lease	
High attrition among owner operators	Better operators	
	More frequent review of economic regulation	
Shoddy operations destabilize whole industry	Preserve Ontario participation	Abolish p.n.&c.
Financially unskilled management destabilizes the industry	Common carrier obligation	Permit interchange of authority among corporate group
Regulatory uncertainty		Permit owner operator to work for private
Deregulation = less quality, loss to employees, small towns, TL carriers		
Remove petitions to cabinet		
Contract = selective deregulation		
International carriers a threat to some domestic carriers		
Relationship between U.S. and Canadian markets		
TL/LTL rate spread widening		
Return load bureaux / van lines improve utilization / productivity		

Mark[illegible]

concerns	outcomes wanted	prescriptions
Need pricing information	More prompt rate changes	Legitimize collective rate making
Rate bureaux help smaller carriers more than large	Availability of pricing info	Eliminate collective rate making
Carriers bending rate filing rules		Require rate publication
Low level of rate/filing enforcement		Eliminate rate filing Exclude filing of contract rates
Administration		
Growth of illegal trucking		
Practical enforcement of the Act is impossible	Enforceable legislation	Establish an effective deterrent to continued violation
	Rational, understandable economic sense	Increase use of specialized tribunal for enforcement
Can't clearly distinguish illegal from legal	Willing compliance	
Courts recognize safety needs more readily than PCV	Even handed enforcement	
No opprobrium to PCV offences	Act to provide for cost effective enforcement	
Process		
Adversary process limits information and understanding		
Allow testimony by affidavit		
Utility vs. service industry trade offs	Fairness	Allow opposition only by participant in traffic
Piecemeal deregulation discriminates against regulated carriers	Avoid disruptions	Publish fitness status of carriers
	Compensate for investment if deregulated	
Adversary/judicial process places limitations on changes possible		Make comprehensive but gradual change
	Rules must be clear	
Less regulation means less public obligation	Avoid using regulation to create indirect subsidies	Eliminate judicial constraints. Obtain SPP Act exemption
Administration law changes fast, process must keep up	Improve consistency of decisions	Provide alternative process: —Investigative vs adversary —Managerial vs judicial (proactive vs reactive)
P.n &c. inadequately defined	Minimize use of oral hearings	
Judicial process crucial to credible fairness		
Appeal process unclear		

Figure 12
OBJECTIVES FOR ECONOMIC REGULATION OF TRUCKING IN ONTARIO



efficient utilization of capacity	low adversary costs	predictable market/ supply	adaptable to production needs	min. inventors	world mandates prod. scale	simple entry	compensatory prices	overall compliance	willing compliance
	minimum red tape	max. utilization	less restrictive licences	simplify trade	international competitiveness	local participation		safety	interjuris-dictional uniformity
	low cost of enforcement					limit concentration		entry fitness	raise understanding and confidence in system

5.3/ Review Process

As indicated in the background section on policy and legislation (Section 5.1.2), the PCV Review follows in a long tradition of Commissions, Select Committees and Reviews on transportation in Canada. Its most immediate antecedent was the Ontario Select Committee on Highway Transportation of Goods. That Committee, in its concluding recommendation, advised that the whole basis of economic regulation needed to be reconsidered and crystallized. The Review Committee was commissioned for that purpose in June 1981.

The scope of the review was limited to the Public Commercial Vehicles (PCV) Act and the economic regulation of trucking. It excluded matters related to the Highway Traffic Act such as equipment size and the matter of truck safety, which has been the subject of a parallel process of review by the Ontario Commission on Truck Safety.

Most members appointed to the Committee by the Minister have been involved with truck transportation in Ontario for many years in one capacity or another. The wide range of experience among the members has been the principal source of insight and perspective for the Committee in its deliberations. Many others were also consulted for their perspectives and advice. Over 100 executives and experts were asked to attend different sessions of the Committee to discuss their views, and written briefs were received as well (Section 5.3.3). Individual members of the Committee have also consulted with a much wider community regarding the issues involved.

The Committee has met approximately once a month for two years. The views and recommendations presented in this report are the product of those meetings.

There has been an earnest effort to consider all perspectives to the issues. A deliberate and structured process has been followed in developing a new framework for regulation. It has involved four phases:

- Orientation and overview
- Identification of the key issues and objectives
- Considering new principles
- Outlining mechanisms for regulation.

This section outlines the main activities of the Committee and lists the main submissions received.

5.3.1/ Terms of Reference

In recognition of the challenges facing the economy of Ontario in the 1980's and 1990's, and in view of the importance of trucking to business in this province, and the need to have a common carrier industry while preserving the right to use private carriage, the Committee shall:

1) Advise the Minister of Transportation and Communications on the principles that should form the foundation of new legislation which will regulate the trucking industry in Ontario over the next two to three decades.

2) Have as its paramount concern the goal that those who use common carriers or their own trucks be well served with an efficient, flexible and productive highway transport system.

3) Ensure that its recommendations are consistent with Ontario's increasing reliance on interprovincial and international trade.

4) Without limiting the generality of the foregoing, consider that intermodal transport and energy conservation are high priorities for Ontario.

5) In the course of its deliberations, define the major issues which it views as being important to the economic regulation of truck transportation, and base its recommendations with respect to these issues upon facts, experience and expert advice, using the available Committee and MTC resources.

6) Make its recommendations within eighteen months of its inception.

At the inaugural meeting of the Committee on June 9, 1981, the Hon. James W. Snow provided guidance as to what he expected from the members. The Minister's remarks are reproduced here to amplify the terms of reference. It might be noted as well, that the Minister provided no further direction or constraint on the deliberations of the Committee; and met with us next on the occasion of the final meeting, June 20, 1983.

". . . .We have a common problem. I need advice on how best to regulate the trucking industry. You can give me that advice. Together, we can make it work.

"I would like to remind you of a statement made by the Premier, Bill Davis. Several years ago he spoke to the OTA convention, and promised that there would continue to be a regulated industry. I am not prepared to back away from this commitment.

"What is it that we want? It is simple. We want forward looking legislation. We must prepare the highway transport industry to face the future with confidence. We need legislation which is simple, sensible, enforceable, and which encourages flexibility and productivity to flourish in the trucking industry. I am tired of hearing deputations tell me that the present legislation hamstrings them. We must get rid of spurious limitations to progress and normal evaluation. I want trucking legislation which supports the manufacturing and distribution sectors as they face the challenges of the 80's.

"Now there is one thing which must be made clear. I am not looking to you to prepare draft legislation. That is the job of the government's legal advisers. What I am looking for from you is a statement of some basic principles which can be used in the preparation of legislation. As government, we need to know how the trucking business can be given the flexibility to adapt to the changes we see coming in our economy. As users and suppliers of the service, you should be telling me in a broad sense how you want the business run. The finest grain of detail which I am looking for from you is an indication of the kind of operational controls which you feel are necessary and useful for government to impose. Give that to me, and we will look after the rest.

"Above all, whatever you give me has to appeal to the common sense of a rational man. It has to be enforceable, or it is not worth the effort I am asking you to put into it.

"In preparing your report, you will be helping me implement the final recommendation of the Select Committee on the Highway Transportation of Goods. They asked that a brand new Act be prepared to regulate the trucking industry. After trying for some time now to make changes to the details of the existing legislation, we are even more impressed with the wisdom of this last recommendation than when it was first made.

". . . . As you go about defining the issues and debating them, I expect that there will be honest differences between honest men as you sit around the table. This is an opportunity for your sense of public duty to find ways to settle these differences without compromising yourselves, your associations or the principles which guide you in your daily business. I do not expect that there will be absolute unanimity in your report. I am just looking for the greatest possible consensus. If you as a Committee cannot produce a common set of recommendations, then you have no choice but to live with a set of government imposed solutions.

"To create this Committee, we drew on a wide pool of talent. A number of you were nominated by industry groups. Others were identified by myself to ensure the widest possible range of interests around the table. The important thing is that you are all my personal appointees. Of course we intend that you will keep in close touch with those sections of the industry with which you are in daily contact. However, it is critical to the successful functioning of this Committee that you regard yourselves primarily as representatives of the road transport industry as a whole, upon whom the government is relying for expert advice.

"In asking you to function as a group in this way, I recognize that I could not afford to simply re-create a forum where the tired old cliches of the various interests were trotted out once more for public display. Gentlemen, the positions that are on record by the various parties are irreconcilable. That is why I am asking each of you to advise me from your personal perspectives what should be done. You will be bringing to the government your own insight to the trucking business, and you were handpicked for the job.

". . . . The Province of Ontario is entering a new competitive era. Our economy is changing fast. The transport industry must be prepared to move with the times. Good luck to you all. We need your best efforts."

5.3.2/ Allocation of Time

The Committee met 27 times over the course of two years. The fact that we had to request an extension of the 18 month mandate underlines the difficulty encountered in dealing with the issues, and how scarce and valuable the time was.

The Committee set its own agenda, and a steering group was established as a sub-committee to manage this task.

An earnest effort was made to consider the issues comprehensively. A deliberate and structured process was followed.

Orientation and Overview

The greatest amount of time was invested in the crucial task of problem definition. The purpose was to develop a comprehensive and common understanding so that consensus could be reached on where the key issues really lie. The Committee was engaged in this effort from June 1981 until February 1982.

Identifying the Issues and Objectives

In April 1982, agreement was reached on a comprehensive list of issues to be addressed (listed at the end of Section 5.2.1). From this, a list of major objectives and trade-offs was gradually distilled. A synopsis of objectives and trade-offs is reproduced in Section 5.2.2.

Considering New Principles

Three different scenarios were considered by which to address the issues and trade-offs, ranging from slight modification of the present system, through a major reorientation, to almost total deregulation. Attractive ideas were extracted from all three scenarios. The proposals which emerged were documented in the Discussion Paper published by the Committee in November 1982.

The ideas outlined in the Discussion Paper drew much constructive comment (summarized in Section 5.4) which helped the Committee in deciding how far to go with its ideas.

Outlining Mechanisms for Regulation

From November 1982 to May 1983 the Committee worked at developing in conceptual terms, the mechanisms which could produce the results desired.

Considerable time and effort went into this task, taking the Committee beyond its original time mandate. Often where consensus existed on general objectives and principles, it was harder to find agreement on the mechanisms. The idea of conducting another review in five years is proposed partially as a practical way of addressing the differences which exist on what the real impacts and implications will be for the various mechanisms proposed. By this device, judgment is reserved, and options are preserved, awaiting concrete evidence.

The importance and urgency attached to the issues led the Committee to go beyond an outline of principles and mechanisms for regulation, and to think through the problems of implementation and transition. The attention to mechanisms, implementation and transitions has been a product of a strong and consistent focus by the Committee on the practical aspects of goods movement and regulation.

5.3.3/ Submissions

The 1976 Select Committee on the Highway Transportation of Goods was given a mandate to collect public input; and a great many appearances and submissions were obtained as a result. The Review Committee did not attempt to resurvey public input on the question of trucking regulation. But it did seek the perspectives and advice of a number of people, and did receive a number of written briefs. Individual members of the Committee consulted widely within their own areas of interest and activity. In addition, submissions were solicited in response to the Discussion Paper.

Appearances and Observers (chronological order)

H. F. Gilbert	Deputy Minister of Transportation and Communications
M. Farrow	Singer Associates
D. Nitkin	Ministry of Transportation and Communications
L. Steele	Ministry of Industry and Trade
K. Sharratt	Ministry of Transportation and Communications
J. Gratwick	Canadian National Railways
A. McKichan	Retail Council of Canada
J. Carter	Retail Council of Canada
C. Kuczer	Technoeconomic Research
R. Denham	Thorne, Stevenson and Kellogg
Hon. F. Miller	Treasurer of Ontario
J. Kennedy	Kingsway Transport
J. Griffith	CNTL
E. Meyers	Meyers Transport
E. Bennett	Listowel Transport
G. Hume	Apache Freight
W. Mathers	Cathcart Transport
W. McGill	Orillia City Truck Lines
H. Smith	Lakehead Transport
L. Lihou	Tallman Transport
D. Gowland	Laidlaw Transport
G. Steed	Steed Standard
D. Smith	J. D. Smith Cartage
F. Leslie	Canada Cartage
P. Dean	Network Transport
R. Uloth	Rosedale Transport
W. McLaren	Saskatchewan Highway Traffic Board
P. Landry	Saskatchewan Highway Traffic Board
C. Randall	Maple Leaf Mills
G. Hedley	Cattlemens Association
R. Rodgers	Farmer
H. Friend	Canada Packers
S. Martin	Fruitbelt Trucking
J. Dunlop	Dunlop Transport
G. Frederick	Frederick Transport
J. Ryan	Shell Oil
R. Lipsett	Union Carbide
W. McKay	Esso Chemicals
R. Leblanc	Provost
R. Rumley	Petrohaul
A. Thomas	Thomas Waste Removal
D. Boyd	Genstar

G. Seegmiller	Seegmiller Construction
J. Coverdale	Jimmy "D" Coverdale
J. Hughes	Ontario Mining Association
K. Johnston	Inco Metals Company
M. Mason	Mattabi Mines
B. Murphy	Falconbridge Mines
R. Zettler	William Day Construction
R. Chafee	Commercial Transport (Northern) Ltd.
M. McKay	Great Lakes Paper
F. McNutt	Milne Lumber
R. Franks	Franks Transport
W. MacKinnon	MacKinnon Transport
F. Walker	Slack Transport
D. Anderson	Anderson Haulage
A. Greene	Nova Scotia Board of Commissioners of Public Utilities
A. Joosse	Laidlaw-Mercury Owner Operators' Association
L. Wilson	Cottrell Forwarding
M. McElhone	Interamerican
R. Milne	Freightaudit
B. McFadden	ITS
R. Brandon	Guardsman Leasing
A. Foster	Ontario-Quebec Personnel
M. Woodhall	Directoline
G. Hanson	Intercan
R. Fletcher	Chocolate Products
E. Pedlar	Continental Group
C. Warner	Sonoco
J. Simeone	Northern Telecom
J. Pringle	Transport Canada
D. Heggtveit	Transport Canada
N. Nantel	Transport Canada
J. Kinley	Manitoba Motor Transport Board
Hon. N. Sterling	Provincial Secretary for Justice
Lt. Col. E. Steele	Department of National Defence
Major Gagne	Department of National Defence
G. Knightley	Allied Van Lines
B. Naylor	Tippett-Richardson
L. Richards	Richards Moving
G. Barratt	Canadian Association of Movers
D. Maister	Harvard University
C. Green	McGill University
L. Lee	Lee Valley Tools
P. Gjoni	Northern Pottery
J. Barfoot	Barfoot's Welding and Machine Shop
K. Mitchell	Woods Gordon
G. Cresswell	Woods Gordon
M. Soye	Woods Gordon
A. Marcil	Commission des transports du Québec
M. Paquette	Commission des transports du Québec
G. Jackson	Teamsters' Union
H. Shelkie	Teamsters' Union
K. O'Brien	Wheeler and Wheeler
F. Kieswetter	Brewery Workers Union
B. Johnston	Listowel Transport
D. Welch	W. J. Mowat
I. Service	Atripco Delivery
G. Tughan	Tughan Express
L. Alter	B. D. C. Limited
W. Bielski	Ontario Telephone Services Commission

K. Devooght	Ministry of Transportation and Communications
G. Marrs	Ontario Highway Transport Board
G. Norton	Ontario Highway Transport Board
L. Tharratt	Ministry of Transportation and Communications
S. Moody	Ministry of Transportation and Communications
G. Bellingham	Alberta Motor Transport Board
J. Boulet	Ministere des Transports du Québec
A. Hrabinski	Manitoba Department of Highways and Transportation
G. Gontier	Ministere des Transports du Québec
J. Alain	Commission des transports du Québec
T. Pollock	Saskatchewan Highway Traffic Board
R. Cope	Ontario Trucking Association

Submissions and Briefs (alphabetical order)

Al's Moving and Cartage Ltd.
Alary Transport Inc.
Board of Trade of Metropolitan Toronto
Canada Transport Ltd.
Canadian Association of Movers
Canadian Chemical Producers Association
Canadian Fruit Wholesalers Association
Canadian Gypsum Company Ltd.
Canadian Highway Transport Lawyers Association
Canadian Industrial Traffic League
Canadian Manufacturers' Association
Canadian Pacific Express and Transport
Canadian Trucking Association
Corn Car Owner-Operators' Association
Contact Cartage
Day & Ross
Fertilizer Institute of Ontario Inc.
Fiberglass Canada Inc.
Flowers Canada
Full Load Truck Co-operative
G. H. Wood & Company Ltd.
Glengarry Transport Ltd.
Grocery Products Manufacturers of Canada
Hearst Lumberman's Association
Independent Truckers' Association of Canada
Industrial Cartage Association
J. E. Transports, Listowel Transport Lines Limited
Koch Transport Ltd.
Man-Tran Services Ltd.
Manitoulin Transportation
Maple Leaf Mills Ltd.
Ontario Dump Truck Owners Association
Ontario Federation of Agriculture
Ontario Grain & Feed Dealers Association
Ontario Grain Corn Council
Ontario Lumber Manufacturers' Association
Ontario Petroleum Association
Ontario Private Truck Association
Ontario Retail Farm Equipment Dealers' Association
Ontario Trucking Association
Preston Transport Ltd.
Private Motor Truck Council of Canada
Proctor and Gamble Inc.
Professional Towers of Ontario
Roy Sheresky (Owner/Operator)

Saunders Leasing System Inc.
Terry Goodwin (Transportation Consultant)
Thunder Bay Chamber of Commerce
Transport Canada
United Parcel Service Canada Ltd.
Westburne Industrial Enterprises Ltd.

5.4/ Responses to Discussion Paper

Introduction

Forty-seven responses were received to the 4,000 Discussion Papers distributed. Twenty-three of these were submitted by associations, which together represent several thousands of interested parties and participants in the highway movement of goods. In general, the submissions were concise and focused directly on the issues and proposals raised in the Discussion Paper. Few new issues were identified, and few new or more detailed proposals were offered.

The major points raised are summarized below in five sections: Overall approach; Scope and classification; Entry regulations; Performance regulation; Institutional process. To provide perspective and contrast, submissions have also been characterized in four different groups; Shippers (21 responses, including private carriers); Carriers (18 responses); Intermediaries (6 responses, including brokers and consultants); Other (2 responses, including lawyers and governments).

The responses registered approval for the review process, and appear to have been generally favourable towards the proposals. There was support for twice as many specific points, as there were reservations or objections to register. The rate of approval was almost identical among shippers, carriers and intermediaries; only the "others" registered more negative than positive points.

Overall Approach

There was general consensus among all groups that the present PCV regulatory system is not working, that it is out of date and needs to be changed. There were some, however, who held reservations about the degree of reform proposed. Particularly among carriers there was some feeling that smaller adjustments and refinements should be enough to bring the Act up-to-date. The strongest reservation, shared by all groups, was caution as to when and how reforms might be introduced. It was felt they should be introduced only when confident of success, and when the industry is more financially capable of absorbing change.

There was general consensus that there continues to be a role for economic regulation. And there was general approval of the emphasis on goals of efficiency, flexibility, enforceability and clarity. But there were some doubts expressed that regulation would be capable of making risks manageable, or making markets "effective".

Only the shippers indicated they thought that more healthy competition would result from reform. Other groups felt there was enough competition now. There was stronger agreement, however, that competition could be made more fair than it is now; especially that everybody should play by the same rules.

The lawyers registered a strong concern that small communities would suffer if the proposed reforms were introduced.

There was concern, especially among carriers, that changes should be evolutionary, and the transition sufficiently gradual to permit adjustment or recovery if errors come to light. There were strong feelings that inter-jurisdictional issues are of great importance, and must be addressed before reforms are initiated.

Summarizing the response to the overall approach to reform adopted by the Committee in its Discussion Paper, opinion was divided. There was strong approval for revising the regulation system somehow, but strong fears related to the risks involved in making changes. Shippers in general approved the overall approach, especially government's role in improving fair competition. Carriers were nervous particularly on interjurisdictional issues, and how the Ontario industry would fare under the proposed reforms. "Others" were most concerned about the impact on small communities.

Scope and Classification

There were varying opinions on the scope and application of regulations proposed in the Discussion Paper. Shippers were emphatic that private carriage must be excluded from the PCV Act, as proposed in the Discussion Paper. They did not feel the PCV Act should apply to all for-hire transportation either, and were in favour of retaining certain exemptions, especially agricultural items. The intermediaries felt that their activities should come within PCV regulations. There was some support for provincial regulation of cartage.

There was complete agreement that the existing licensing classification system is too complex, and results in unnecessary restrictions on carrier operations.

In summary, there was consensus that the Review Committee has proposed the right scope of regulation and simplification of license specification system. There was strong conformity among carriers on these points; but the intermediaries maintained that the scope of the Act should be extended to regulate brokers, freight forwarders, and co-operatives, etc.

Entry Regulation

There was widely based support for the concept of a fitness test. Not everybody, however, was in favour of dropping the existing entry test of public necessity and convenience in favour of a fitness test. There was a majority supporting the elimination of p.n.&c., especially strong among shippers. It was felt that the fitness test would be a big help in addressing concerns about such things as competency and safety etc.,

Opinion was split on the subject of including a market test in the entry regulation. The carriers indicated they thought this was an important test in order to avoid market destruction or instability, while the shippers did not think that it was a necessary part of entry regulation. All groups felt that financial analysis of an application for entry would be difficult, if not impossible to administer, because of notorious problems of financial data reporting.

The idea of maintaining a "contract" class of carriage, and that there should be reduced entry requirements for this class of carriage, received some support. Also receiving scattered support (and no objections) were the proposals for trip leasing, and creating more discipline in owner operator qualifications and contracts.

In summary, there was general support for the Review Committee proposals on entry regulation. The greatest support was derived from dissatisfaction with the current p.n.&c. test, and the proposal for the new fitness test. The greatest objections were focused on the use of financial tests to qualify entrants. The carriers were more unanimous in their support, particularly on the matter of including a market test to prevent market destruction.

Performance Regulation

There was universal agreement that the area of enforcement must be reformed and made more effective. Some felt that this area should be top priority, and certainly, "enforceability" should be one of the main objectives in improving the legislation.

Towards this end, the CVOR concept, with its demerit policing system, received widespread endorsement. There were some concerns registered about whether this would entail an expanded bureaucracy and more red

tape. It was felt that CVOR should only be adopted if it could reduce red tape. Shippers were quite concerned that the CVOR should not change their status with respect to the PCV Act.

Some carriers felt that the abandoned process of Board Reviews were among the most effective devices for performance regulation. They advocated the restoration of Board Reviews.

The concept of shipper responsibilities mentioned tangentially in the Discussion Paper generated a mixed reaction, with at least the suggestion that shipper responsibilities might be clarified.

There were fears common to each group about predatory pricing. It was felt that the competition laws are incapable of dealing with this, and that PCV Act must. The main reservation concerned the difficulty of policing predation.

There was a large response, especially among the shippers, in favour of dropping rate filing; though the few responses that supported rate filing also came from among the shippers.

In summary, the area of performance regulation was where the strongest support for the Discussion Paper was recorded. Support for improved performance regulation was common to all groups.

Institutional Process

Opinion was evenly divided on the subject of whether the Transport Board requires substantial reform or not. Many felt that recent improvements have solved most problems at the Board. Opinion was equally divided on whether the Board should have more or less discretion, more or less independence, and whether it should be self financed or not. All groups commented on this matter, but there was no clear consensus.

One area where there was clear consensus was the subject of public hearings. While some felt that the hearing process had many virtues, most felt that in most cases hearings were unnecessary and too expensive. The use of pre-hearings and administrative process was advocated in a few submissions in order to reduce the objectionable burdens of hearings.

In summary, all groups supported reforms, except for the lawyers, who felt the existing processes were best. In general, however, institutional process attracted the least amount of comment.

5.5/ Selected List of Resource Material

1. Meeting 1 Proceedings. (inauguration & government perspective) *June 9, 1981*
2. Ontario PCV Review Committee Terms of Reference. (1 pg)
3. Remarks by the Honourable James Snow on the Inauguration of the PCV Review Committee. (4 pgs)
4. Order in Council 2105/79 on Matters to be considered by the OHTB when determining questions of public necessity and convenience. (2 pgs)
5. Remarks by David Maister to OTA's Annual Convention, November 20, 1978. (6 pgs)
6. Meeting 2 Proceedings. (participant's perspectives) *July 10, 1981*
7. PCV Act and Regulations, April 1982. (75 pgs)
8. An Introduction to the Ontario Highway Transport Board. (Pamphlet)
9. A Guide on How to Apply for a Class H PCV licence. (Pamphlet)
10. A Guide on How to Apply for a Class R PCV licence. (Pamphlet)
11. Trucking Regulation; A Selected Bibliography. (6 pgs)
12. A Synopsis of the Final Report of the Ontario Select Committee on the Highway Transportation of Goods. (2 pgs)
13. A Synopsis of the Report of the Committee of the Judiciary, United States Senate, on Federal Restraints on Competition in the Trucking Industry: Antitrust Immunity and Economic Regulation. (2 pgs)
14. A Synopsis of the final report of the Economic Council of Canada on Reforming Regulation. (16 pgs)
15. Costs of Regulation: Ontario Administrative Costs and Summaries of Related Studies. (12 pgs)
16. Meeting 3 Proceedings. (industry structure—future work plan) *September 25, 1981*
17. Discussion paper on Owner Operators of Trucks and Truck Transportation Brokers. (52 pgs)
18. Synopsis of the discussion paper on Owner Operators of Trucks and Truck Transportation Brokers. (4 pgs)
19. Discussion paper on Trucking Industry Structure. (9 pgs)
20. Meeting 4 Proceedings. (general trends & outlooks) *October 30, 1981*
21. Synopsis of Small Community Study, Phase 1. (8 pgs)
22. Summary Report on Preliminary Research on the Demand for Trucking in Ontario. (12 pgs)
23. History of the Public Commercial Vehicles Act and Related Laws and Regulations. (51 pgs)
24. Meeting 5 Proceedings. (retail sector, physical distribution regulation, automotive industry) *November 27, 1981*
25. Remarks by James G. Dykes on the Automotive Industry. (8 pgs)
26. Meeting 6 Proceedings. (general freight carriers—outlooks) *January 15, 1982*
27. Synopsis of three U.S. Dept. of Transportation studies of Truck Transportation to Small Communities. (7 pgs)
28. The Motor Carrier Industry: An Annotated Bibliography Prepared for The Select Committee on Highway Transportation of Goods (1976). (40 pgs)

29. Regulation and the Trucking Industry: A Select Bibliography (1982). (39 pgs)

January 29, 1982

30. Meeting 7 Proceedings. (bulk movement industry—outlooks)
31. Perspectives by Maureen Farrow (Singer Associates) on the Ontario Economic Environment 1981/82. (16 pgs)
32. Bill 160, and Compendium to amend the Public Commercial Vehicles Act to allow Intercorporate hauling. (31 pgs)

February 12, 1982

33. Meeting 8 Proceedings. (intermediary and private carriers—outlooks)
34. I.C.C. Rulings, Ex Parte MC-121 (entry) (21 pgs)

February 26, 1982

35. Meeting 9 Proceedings. (Household Goods Carrier outlooks, government and academic views)
36. Owner operator survey, Ontario Trucking Association, 1980. (43 pgs)
37. Intermediate Transportation Services (overview). (3 pgs)
38. Remarks to the PCV Committee by David Maister (Harvard Business School) on Trucking Regulation. (17 pgs)

March 12, 1982

39. Meeting 10 Proceedings. (Small business, enforcement, O.H.T.B.)

April 2, 1982

40. Meeting 11 Proceedings. (Labour, small parcel carriers)
41. Norman Bonsor, The Development of Regulation in the Highway Trucking Industry in Ontario. (32 pgs)
42. Dennis A. Breen, Regulatory Reform and the Trucking Industry: An Evaluation of the Motor Carrier Act (U.S.) 1980. (53 pgs)
43. Synopsis of U.S. D.O.T. study into the Relationship Between Motor Carrier Economic Regulation and Highway Safety. (6 pgs)
44. Ontario Highway Transport Board, Annual Reports 1979, (32 pgs) 1980. (41 pgs)
45. Synopsis of the Interstate Commerce Commission Decision to Permit the Lease of Owner and Operator Equipment and Drivers to Private Carriers. (2 pgs)
46. U.S. Federal Register, Part III June 11, 1981, Department of Transportation; Motor Carriers Minimum Levels of Financial Responsibility. (14 pgs)
47. Ron Hirschhorn (Economic Council of Canada), Trucking Regulation in Canada: A Review of the Issues. (183 pgs)

April 16, 1982

48. Meeting 12 Proceedings. (summary—issues & outlooks)

April 30, 1982

49. Meeting 13 Proceedings. (objectives—scenarios for regulation)

May 28, 1982

50. Meeting 14 Proceedings. (general principles of regulation)

June 25, 1982

51. Meeting 15 Proceedings. (discussion on draft interim report)
52. Ontario Highway Transport Board, Annual Report, 1981. (36 pgs)

September 10, 1982

53. Meeting 16 Proceedings (general discussion on objectives of reform)

October 1, 1982

54. Meeting 17 Proceedings (small communities, V.O.L. concept)

October 29, 1982

55. Meeting 18 Proceedings (operating, financial, and market fitness tests)
56. Synopsis of the M.T.C. Report on Trucking Service to Small Communities (4 pgs)

November 26, 1982

57. Meeting 19 Proceedings (Alberta regulatory structure, financial fitness entry tests)
58. Responsible Trucking, Interim Report of the P.C.V. Review Committee (30 pgs)

59. Trucking Services to Small Communities, M.T.C. (1982) (67 pgs)
60. Overview of available statistics on Private Trucking in Ontario (41 pgs)
61. Overview of available statistics on Concentration in the Ontario for-hire trucking industry (15 pgs)
62. Overview of available statistics on Truck leasing in Ontario (15 pgs)
63. Meeting 20 Proceedings (fitness tests discussion) — *December 17, 1982*
64. Compliance: A Report on Achieving Compliance with Administrative Law, M.T.C., (46 pgs)
65. Meeting 21 Proceedings (licence classifications, Board powers) — *January 28, 1983*
66. Meeting 22 Proceedings (regulatory objectives, final report design) — *February 25, 1983*
67. Meeting 23 Proceedings (objectives and principles, implementation) — *March 11, 1983*
68. Meeting 24 Proceedings (final report design) — *March 23, 1983*
69. A Comparative Analysis of Trucking Rates in Canada, M.T.C., 1982, (121 pgs)
70. Meeting 25 Proceedings (final report detail) — *April 22, 1983*
71. Meeting 26 Proceedings (final report detail, implementation) — *May 13, 1983*
72. Meeting 27 Proceedings (final report editing) — *June 3, 1983*
73. Woods Gordon Report on Decision Making Process of the PCV Review Committee (21 pgs)